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THE
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Parish Officer.

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BY

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AND THE REST BY

THOMAS CHITTY, Esq.

IN SIX VOLUMES.

—♦—
VOL. V.

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A. MAXWELL, 32, BELL YARD, LINCOLN'S INN;

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1831.



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AND
Parish Officer.

BY
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A TABLE

OF

TITLES TREATED OF IN THIS VOLUME.

	<i>Page</i>		<i>Page</i>
PARDON	1	Prophecies	255
Parish Registers	5	Public Worship	256
Parliament	12	Purveyors	257
Pauper	34	Quo Warranto	258
Partition	34	Rape	258
Pawning	34	Recognizance	263
Peers	55	Replication	272
Perjury and Subornation	56	Rescue	273
Petition	79	Rewards	275
Pewter, and other Metals	79	Riot—Unlawful Assembly—Training to Arms	277
Physicians, Surgeons, and Apothecaries	80	Rivers and Navigation	307
Pillory and Tumbrel	90	Robbery	314
Piracy	91	Sacrilege	324
Plague and Quarantine	95	Schoolmasters	326
Plate	99	Scotland	326
Players	102	Seamen	327
Plea	105	Search-Warrant	353
Police of the Metropolis	106	Servants	357
Polygamy	140	Sessions of the Peace	446
Popery	146	Sessions, Petty and Special	484
Post-Horses	158	Sewers	486
Post-Office	179	Sheep	489
Premunire	219	Sheriff	493
Printers	222	Ships	498
Prison-Breaking	229	Shire-Hall	524
Prisoners of War	232	Silks	531
Process	233	Slander	532
Promissory Notes	243		

TABLE OF TITLES.

	<i>Page</i>		<i>Page</i>
Slave-Trade and Slavery	533	Transportation	941
Spring-Guns	535	Traverse	956
Stage-Coaches	536	Treason	961
Stamps	561	Treasure Found	967
Statutes	634	Trespasses	968
Stocks	652	Trial	968
Stocks in the Funds and of Compa- nies	652	Vagrants	971
Stocking-Frames	653	Venue	981
Stores, Naval and Military	653	Wales	982
Summons	670	Warrant of Apprehension	984
Surety of the Peace	671	Watch	999
Surety for the Good Behaviour . .	680	Weights and Measures	1001
Swearing	693	Whipping, Punishment of	1021
Taxes, Assessed, &c.	697	Wife	1022
Thames	890	Witchcraft	1026
Thread	916	Witnesses	1027
Threats	916	Women	1027
Time	924	Wood	1028
Tithes	927	Woollen Manufacture	1031
Tobacco	938	Wreck	1042
Tom	939	Conclusion	1071

THE
JUSTICE OF THE PEACE
 AND
PARISH OFFICER.

Pamphlets. See **Newspapers.** Vol. III.

Panel. See **Jurors.** Vol. III.

Paper. See **Excise.** Vol. II.

Papists. See **Popery.** Post.

Pardon.*

[27 Edw. III. c. 2; 13 Rich. II. st. 2, c. 1; 5 Wil. c. 13; 12 & 13 Wil. c. 2; 20 Geo. II. c. 52; 30 Geo. III. c. 47; 37 Geo. III. c. 140; 58 Geo. III. c. 29; 6 Geo. IV. c. 25; 7 & 8 Geo. IV. c. 28, s. 13; 9 Geo. IV. c. 32.]

A PARDON is a work of mercy, whereby the king, either before the attain- What.
 der, sentence, or conviction, or after, forgiveth any crime, offence, punish-
 ment, execution, right, title, debt, or duty, temporal or ecclesiastical. 3 *Inst.*
 233.

The power of pardoning offences is inseparably incident to, and is the ^{Granted by king.}
 most amiable prerogative of, the crown; and this high prerogative the King
 is entrusted with upon a special confidence that he will spare those only
 whose case (could it have been foreseen) the law itself may be presumed
 willing to have been excepted out of its general rules; which the wisdom of
 man cannot possibly make so perfect as to suit every particular case. 1 *Show.*
 284.

By the 30 Geo. III. c. 47, the king may empower the governor or

* As to pardons in general, see *dere*d; and see 3 *Inst.* 233 to 240;
 1 *Chit. C. L.* 762 to 777, where the *2 Hawk. c. 37; Com. Dig. Pardon.*
 law relative thereto is very fully consi-
 VOL. V. B

lieutenant-governor of any place to which convicts are transported, to remit the term of transportation.

General pardon. Pardons are either *general* or *special*: *general*, are by act of Parliament; of which, if they are without exceptions, the court must take notice *ex officio*: but if there are exceptions therein, the party must aver that he is none of the persons excepted. 3 *Inst.* 233. *Hale's Sum.* 252.

By the 20 Geo. II. c. 52, for the king's general pardon, all persons are pardoned and discharged from certain crimes committed prior to June 15, 1647; with certain exemptions in the said act mentioned.

And the like for the most part hath been enacted by former statutes of general pardon; together, also, with the exceptions of several persons by name.

Special pardon. *Special* pardons are either *of course*, as to persons convicted of manslaughter, or *se defendendo*, and by divers statutes to those who shall discover their accomplices in several felonies; or of *grace*, which are by the king's charter, of which the court cannot take notice *ex officio*, but they must be pleaded. 3 *Inst.* 233.

What pardon-able. As to what offences are pardonable in general, see 1 *Chit. C. L.* 672.

Offence before committed. The king cannot pardon an offence before it be committed; and such pardon is void. 2 *Haw. c.* 37, s. 28.

Nuisances. And in some cases, even where the king is sole party, some things there are which he cannot pardon: as, for example, for all common nuisances, as for not repairing bridges or highways, the suit (for avoiding multiplicity of suits) is given to the king only for redress and reformation thereof; but the king cannot pardon or discharge either the nuisance, or the suit for the same; because such pardon would take away the only means of compelling a redress of it. But it hath been holden by some, that a pardon of such offence will save the party from any fine for the time precedent to the pardon. 3 *Inst.* 237. 2 *Haw. c.* 37, s. 33.

Fines. And surely, a fine being a mulct to the king, and not a forfeiture to the party grieved, may be by the king remitted.

Impeachment. By the act of settlement, 12 & 13 Wil. III. c. 2, no pardon, under the great seal of England, shall be pleadable to an impeachment by the Commons in Parliament. But it seems, after the impeachment solemnly heard and determined, the royal grace is not farther restrained or abridged; for that to pardon delinquents convicted on impeachment is as ancient as the constitution. 4 *Blac. Com.* 400, n. 2.

But in the case of an impeachment, after the Lords have delivered their sentence of guilty, the Commons can pardon the party by declining to demand judgment against him; for no judgment can be pronounced by the Lords till it be demanded by the Commons. 4 *Blac. Com.* 400, n. 2.

Recognisances. Thus also, if one be bound by recognisance to the king to keep the peace against another by name, and generally all other lieges of the king, in this case, before the peace be broken, the king cannot pardon or release the recognisance, although it may be made only to him, because it is for the benefit and safety of his subjects. 1 *Inst.* 238.

Information quitam. Likewise, after an action popular is brought as well for the king as for the informer, according to any statute, the king can but discharge his own part, and cannot discharge the informer's part; because by bringing the action the informer hath an interest therein: but before the action brought, the king may discharge the whole, (unless it be provided to the contrary by the act,) because the informer cannot bring an action or information originally for his part only, but must pursue the statute. And if the action be given to the party grieved, the king cannot discharge the same. 3 *Inst.* 231.

By non-payment of money on 7 & 8 G. 4, c. 29. By the 7 & 8 Geo. IV. c. 29, s. 69, it is enacted, that it shall be lawful for the king's majesty to extend his royal mercy to any person imprisoned by virtue of this act (relating to larceny, &c.) *ante*, Vol. III. *Larceny*, although he shall be imprisoned for non-payment of money to some party other than the crown.

Suit in the spiritual court. It seems to have been always agreed that the king's pardon will discharge any suit in the spiritual court, *ex officio*. Also, it seems to be settled at this

day, that it will discharge any suit in such court at the instance of the party, for the reformation of manners, or welfare of the soul, as for defamation, or laying violent hands on a clerk, and such like; for such suits are in truth the suits of the king, though prosecuted by the party. Also, it seems to be agreed that, if the time to which such pardon hath relation be prior to the award of costs to the party, it shall discharge them. And it seems to be the general tenor of the books, that though it be subsequent to the award of the costs, yet if it be prior to the taxation of them, it shall discharge them; because nothing appears in certain to be due for costs before they are taxed. 1 *Haw. c. 37, s. 41.*

Suit in spiritual court.

But it seems agreed that a pardon shall not discharge a suit in the spiritual court any more than in the temporal, for a matter of interest or property in the plaintiff; as for tithes, legacies, matrimonial contracts, and such like. *Id. s. 42.*

If the king release to a man all debts, this shall not discharge his co-debtor; but otherwise it is in case of a subject, for in that case the release to one discharges both. 3 *Inst. 239.*

Co-debtors.

A pardon could not formerly be pleaded, unless it were by act of Parliament or under the great seal; and the king's warrant under the sign-manual was not pleadable, as was held in the case of *R. v. Beaton*, 1 *Bl. Rep. 479*; *Lord Warwick's case*, 13 *How. State Trials*, 1015; *Rex v. Gully*, 1 *Leach*, 98.

King's sign-manual to pardon not requisite.

But now by the 7 & 8 Geo. IV. c. 28, s. 13, it is declared and enacted, "That where the king's majesty shall be pleased to extend his royal mercy to any offender convicted of any felony, punishable with death or otherwise, and by warrant under his royal sign-manual, countersigned by one of his principal secretaries of state, shall grant to such offender either a free or a conditional pardon; the discharge of such offender out of custody in the case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the great seal for such offender, as to the felony for which such pardon shall be so granted."

"Provided always, that no free pardon, nor any such discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction, for any felony committed after the granting of any such pardon."

The 6 Geo. IV. c. 25, (which is not repealed), is similar to the first part of the above provision, except that the 6 Geo. IV. applies only to cases of felony *excluded the benefit of clergy*, whereas the above provision extends to all felonies.

The 9 Geo. IV. c. 32, s. 3, after reciting, "It is expedient to prevent all doubts respecting the civil rights of persons convicted of felonies not capital, who have undergone the punishment to which they were adjudged;" enacts, "that where any offender hath been or shall be convicted of any felony not punishable with death, and hath endured or shall endure the punishment to which such offender hath been or shall be adjudged for the same, the punishment so endured hath and shall have the like effects and consequences as a pardon under the great seal, as to the felony whereof the offender was so convicted. Provided always, that nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other felony."

Every punishment for felony, after endured, shall have effect of a pardon under great seal.

Proviso.

By the 27 Edw. III. c. 2, in every charter of the pardon of felony, the suggestion, and the name of him that maketh the suggestion, shall be comprised; and, if it be found untrue, the charter shall be disallowed.

Pardon to contain the suggestion.

For, wherever it may reasonably be presumed that the king was deceived, the pardon is void. Therefore, any suppression of truth or suggestion of falsehood in a charter of pardon will vitiate the whole. 2 *Hawk. c. 37, s. 12*; 3 *Inst. 238.*

Pardon to specify the offence, if murder, treason, or rape.

And, by stat. 13 Rich. II. st. 2, c. 1, no charter of pardon shall be allowed for murder, treason, or rape, unless the offence be specified therein.

Lord Coke says, the intention of this act was not that the king should grant a pardon of murder by express name in the charter, but because the whole Parliament conceived that he would never pardon murder by special name. And he says, he hath never seen any pardon of murder by any king of England by express name. 2 *Inst.* 233, 236.

It was, however, determined in the Court of King's Bench, that the king may pardon on an indictment for murder, as well as a subject may discharge an appeal. 1 *Salk.* 499.

Person pardoned may be bound to good behaviour.

By stat. 5 Wil. III. c. 13, when a pardon is pleaded by any one for felony, the justices may at their discretion remand him to prison till he enter into recognisance, with two sureties, for his good behaviour, for any time not exceeding seven years.

Pardon doth not restore lands or goods forfeited.

It seems to be a settled rule that no pardon by the King, without express words of restitution, shall divest either from the King or subject an interest either in lands or goods vested in them by an attainder or conviction precedent; yet it seems agreed, that a pardon prior to a conviction shall prevent any forfeiture either of lands or goods. 2 *Hawk.* c. 35, s. 54.

Doth not restore the corruption of blood.

A pardon after the attainder doth not restore the corruption of blood; for this cannot be restored but by act of Parliament. 3 *Inst.* 233.

Doth restore the credit.

But, as to issue born after the pardon, it hath the effect of the restitution of blood. 1 *Hale*, 358.

It seems to be settled at this day, that the pardon of treason or felony, even after a conviction or attainder, doth so far clear the party from the infamy and all other consequences of his crime, that he may not only have an action for a scandal in calling him traitor or felon after the time of the pardon, but may also be a good witness, notwithstanding the attainder or conviction; because the pardon makes him, as it were, a new man, and gives him a new capacity and credit. 2 *Hawk.* c. 37, s. 48. See Vol. II. *Evidence*.

In perjury.

But it seems to be the better opinion that the pardon of a conviction of perjury doth not so restore the party to his credit as to make him a good witness; because it would be an injury to the people in general to make them subject to such a person's testimony. 1 *Vent.* 349.

Touching a pardon for perjury, this difference is to be taken, that where a party is convict upon the statute, it is part of the judgment to be disabled; but, at common law, it is only a consequential disability. Therefore, in the latter case, the King may pardon, and that restores the party to his testimony; otherwise in the former, for in that case he must reverse the judgment, or cannot be restored. *Rex v. Greepe*, 2 *Salk.* 574.

Fees for pardons to be paid by the Treasury.

By stat. 58 Geo. III. c. 29 (for regulating the payment of fees for pardons under the great seal), it is enacted, "that no fee, gratuity, or other dues, paid or payable for or in respect of any grant of a pardon by his Majesty, his heirs and successors, or for or in respect of any letters patent, charter, warrant, bill, docket, or other instrument appertaining thereto, or the transcript of any such instrument, shall be paid or payable by or on behalf of the person or persons in whose favour or to whom such pardon shall be granted; but that all fees which are now paid and payable for the granting and passing of any such pardon or pardons, shall be paid by the Lords Commissioners of his Majesty's Treasury of the United Kingdom of Great Britain and Ireland, in the same manner and by the same persons as other law expenses on behalf of his Majesty are paid."

Exemption from stamp-duties.

Sect. 2 enacts, that from and after the passing of this act, no such letters patent, charter, warrant, bill, docket, instrument, or transcript, as aforesaid, shall be subject to or liable to be charged with any stamp-duty or duties whatever.

Of pardon to persons sentenced to death by a naval court-martial.

By stat. 37 Geo. III. c. 140, s. 1, if his Majesty shall be pleased to extend his mercy to any offender liable to the punishment of death, by the sentence of a naval court-martial, upon condition of transportation, or of transporting himself beyond seas, or on condition of being imprisoned within any gaol in Great Britain, or on condition of being kept to hard labour in any gaol, or

Pardon.

5

house of correction, or penitentiary house, or on any river, it shall be lawful for any justice of the King's Bench, chief baron or baron of the Exchequer, of the degree of the coif, upon such intention of mercy, as aforesaid, being notified in writing by one of his majesty's principal secretaries of state, to allow to such offender the benefit of such conditional pardon as shall be expressed in such notification, in the same manner as if a conditional pardon had passed for that purpose under the great seal. And, if the condition be of transportation, or of transporting himself, such justice or baron shall make order as he might in cases under stat. 24 Geo. III. s. 2, c. 56. If the condition be of imprisonment, or being kept to hard labour, the pardon shall be allowed, as aforesaid; and such justice or baron shall order imprisonment or hard labour, according to the notification of pardon from such secretary, as he might do by the 19 Geo. III. c. 74.

37 Geo. 3, c. 140.

By sect. 2, the justice or baron who shall allow such pardon, and make such order under such notification, shall direct the notification and his own order to be filed in the office of the Clerk of the Crown of the Court of King's Bench.

The pardon, &c. to be filed in K. B.

By sect. 4, the said Clerk of the Crown shall, upon the application of any such offender who shall accept his Majesty's pardon, or of any other person applying on his behalf, or on application of any person on the behalf of his majesty, deliver a certificate in writing under his hand, containing an account of the christian name and surname of such offender, of his offence, of the place where the court was held, before whom he was convicted, and of the terms and conditions on which pardon was given him; which certificate shall be sufficient proof of the conviction and sentence of such offender, and also of the terms on which such pardon was granted, in any court, and in any proceeding in which it may be necessary to inquire into the same.

Certificate from clerk of crown to be proof of pardon.

Parent and Children.

AS to the maintenance of children, see Vol. I. Bastards; post, Vol. IV. Poor.

As to how far an assault may be justified in defence of parent and child, see Vol. I. Assault.

Parish Registers.

[52 Geo. III. c. 146.; 4 Geo. IV. c. 76; 1 Wil. IV. c. 66.]

AS to proof of marriages, see Vol. II. Evidence.

As to proof by registers, Vol. II. Evidence.

By stat. 52 Geo. III. c. 146, after reciting that "whereas the amending the manner and form of keeping and of preserving registers of baptisms, marriages, and burials, of his Majesty's subjects in the several parishes and places in England, will greatly facilitate the proof of pedigrees of persons claiming to be entitled to real or personal estates, and be otherwise of great public benefit and advantage," it is enacted, that from and after the 31st of December, 1812, registers of public and private baptisms, marriages,* and burials, solemnized according to the rites of the united Church of England and Ireland, within all parishes or chapelries in England, whether subject to the ordinary, or peculiar, or other jurisdiction, shall be made and kept by the rector, vicar, curate, or officiating minister, of every parish (or of any chapelry where the ceremonies of baptism, marriage, and burial, have been

52 Geo. 3, c. 146.

Officiating ministers to keep registers of public and private baptisms, of marriages, and of burials.

* And now, by stat. 4 Geo. IV. c. 76, tered and signed, &c. See the act in s. 28, marriages are to be in the presence of two witnesses, and to be registered, ante, Marriage, vol. iii.

52 Geo. 3, c. 146.

Parishes to provide suitable books for that purpose.

King's printer to transmit to each parish a printed copy of this act, and register-books adapted to the forms herein prescribed.

Registers to be in separate register-books.

Certificate of baptism or burial, when performed in any other place than the parish church or church-yard, to be according to schedule D.; and the entry of such baptism or burial to be distinguished accordingly.*

usually and may, according to law, be performed), for the time being, in books of parchment, or of good and durable paper, to be provided by his Majesty's printer, as occasion may require, at the expense of the respective parishes or chapelries; whereon shall be printed, upon each side of every leaf, the heads of information herein required to be entered in the registers of baptisms, marriages, and burials, respectively; and every such entry shall be numbered progressively from the beginning to the end of each book, the first entry to be distinguished by number one; and every such entry shall be divided from the entry next following by a printed line, according to the forms contained in the schedule (A. B. C.) hereto annexed; and every page of every such book shall be numbered with progressive numbers, the first page being marked with the number 1, in the middle of the upper part of such page, and every subsequent page being marked in like manner with progressive numbers, from number 1 to the end of the book.

Sec. 2. And, for better insuring the regularity and uniformity of such register books, a printed copy of this act, together with one book so prepared, as aforesaid, and adapted to the form of the register of baptisms prescribed in the schedule (A.) to this act annexed; and also one other book so prepared as aforesaid, and adapted to the form prescribed for the register of marriages in the schedule (B.) to this act annexed; and also one other book so prepared as aforesaid, and adapted to the form prescribed for the register of burials in the schedule (C.) to this act annexed, shall be provided and transmitted by his Majesty's printer to the officiating ministers of the several parishes and chapelries in England respectively, who are hereby required to use and apply the same in and to the purposes of this act; and such books respectively shall be proportioned to the population of the several parishes and chapelries, according to the last returns of such population made under the authority of Parliament; and other books of like form and quality shall, for the like purposes, be furnished from time to time by the churchwardens or chapelwardens of every parish or chapelry, at the expense of the said parish or chapelry, whenever they shall be required by the rector, vicar, curate, or officiating minister, to provide the same; and all such books shall be of paper, unless required to be of parchment by such churchwardens or chapelwardens respectively.

Sec. 3. Such registers shall be kept in such separate books aforesaid; and every such rector, vicar, curate, or officiating minister, shall, as soon as possible after the solemnization of every baptism, whether private or public, or burial respectively, record and enter, in a fair and legible handwriting, in the proper register-book, to be provided, made, and kept, as aforesaid, the several particulars described in the several schedules herein-before mentioned, and sign the same; and in no case, unless prevented by sickness, or other unavoidable impediment, later than within seven days after the ceremony of any such baptism or burial shall have taken place.

Sec. 4. Whenever the ceremony of baptism or burial shall be performed in any other place than the parish church or church-yard of any parish (or the chapel or chapel-yard of any chapelry, providing its own distinct registers), and such ceremony shall be performed by any minister not being the rector, vicar, minister, or curate, of such parish or chapelry, the minister who shall perform such ceremony of baptism or burial shall, on the same or on the next day, transmit to the rector, vicar, or other minister of such parish or

* An entry in a register of baptism, as to the time of a child's birth, is not evidence of the age, *Withen v. Law*, 3 Stark. 63. Nor is the register of the christening of a child in a particular parish evidence, when unaccompanied by other circumstances, that the child was born in that parish, *Rex v. North Petherton*, 5 B. & C. 508, 4 D. & R., M. C. 79, S. C. And an entry in the register-book by the minister of the

parish of the baptism of a child, which had taken place before he became minister or had any connection with the parish of which he received information from the parish-clerk, is not admissible in evidence, nor is the private memorandum of the fact made by the clerk who was present at the baptism. *Dee d. Warren v. Bray*, 8 B. & C. 812; and see further, *ante*, *Edwards*, Vol. II.

chapelry, or his curate, a certificate of such baptism or burial, in the form contained in the schedule (D.) to this act annexed; and the rector, vicar, minister, or curate, of such parish or chapelry, shall thereupon enter such baptism or burial, according to such certificate, in the book kept pursuant to this act for such purpose, and shall add to such entry the following words: "According to the certificate of the Rev. _____, transmitted to me on the _____ day of _____."

Section 5. The several books wherein such entries shall respectively be made, and all register-books heretofore in use, shall be deemed to belong to every such parish or chapelry respectively, and shall be kept by, and remain in the power and custody of, the rector, vicar, curate, or other officiating minister, of each respective parish or chapelry, as aforesaid, and shall be by him safely and securely kept in a dry, well-painted iron chest, to be provided and repaired, as occasion may require, at the expense of the parish or chapelry; and which said chest, containing the said books, shall be constantly kept locked in some dry, safe, and secure, place, within the usual place of residence of such rector, vicar, curate, or other officiating minister (if resident within the parish or chapelry), or in the parish church or chapel; and the said books shall not, nor shall any of them, be taken or removed from or out of the said chest, at any time, or for any cause whatever, except for the purpose of making such entries therein, as aforesaid, or for the inspection of persons desirous to make search therein, or to obtain copies from or out of the same, or to be produced as evidence in some court of law or equity, or to be inspected as to the state and condition thereof, or for some of the purposes of this act; and, immediately after making such respective entries, or producing the said books respectively for the purposes aforesaid, the said books shall forthwith again be safely and securely deposited in the said chest.

Register-books: to be kept in custody of the officiating minister, in an iron chest, to be provided at parish expense.

Section 6. At the expiration of two months after the 31st of December, 1812, and at the expiration of two months after the end of every subsequent year, fair copies of all the entries of the several baptisms, marriages, and burials, which shall have been solemnized, or shall have taken place, within the year preceding, shall be made by the rector, vicar, curate, or other resident or officiating minister (or by the churchwardens, chapelwardens, clerk, or other person duly appointed for the purpose, under and by the direction of such rector, vicar, curate, or other resident or officiating minister), on parchment, in the same form as prescribed in the schedules hereunto annexed (to be provided by the respective parishes); and the contents of such copies shall be verified and signed in the form following, by the rector, vicar, curate, or officiating minister, of the parish or chapelry to which such respective register-book shall appertain:—

Annual copies of registers to be made, and to be verified by the officiating minister.

I, A. B., rector [or, as the case may be] of the parish of C. [or, "of the chapelry of D."], in the county of E., do hereby solemnly declare, that the several writings hereto annexed, purporting to be copies of the several entries contained in the several register-books of baptisms, marriages, and burials, of the parish or chapelry aforesaid, from the _____ day of _____ to the _____ day of _____, are true copies of all the several entries in the said several register-books respectively, from the said _____ day of _____ to the said _____ day of _____; and that no other entry during such period is contained in any of such books respectively, are truly made, according to the best of my knowledge and belief.*

* Sic.

(Signed)

A. B.

Which declaration shall be fairly written, without any stamp, on the said copy, immediately after the last entry therein; and the signature to such declaration shall be attested by the churchwardens or chapelwardens, or one of them, of the parish or chapelry to which such register-books shall belong.

Section 7. Copies of the said register-books, verified and attested as aforesaid, shall, whether such parish or chapelry shall be subject to the ordinary, peculiar, or other jurisdiction, be transmitted by such churchwardens or chapelwardens, after they, or one of them, shall have signed the same, by the post, to the registrars of each diocese in England, within which the church or chapel shall be situated, on or before the 1st of June, 1814, and on or before the 1st day of June in every subsequent year.

Annual copies of register-books to be transmitted to the registrars of each diocese by the churchwardens.

52 Geo. 3, c. 146.

Registrars to make reports to bishops whether the said copies have been sent in.

In case of neglect or refusal of officiating minister to verify copies of the register-books, churchwardens to certify the default.

In places where there is no church or chapel, a memorandum of every baptism or burial may be delivered to the officiating minister of some adjoining parish.

Letters and packets, containing annual copies of register-books, to go free of postage.

Annual copies of register-books, when transmitted to registrars, to be safely kept from damage; and alphabetical lists to be made.

Report to the Privy Council on or before 1st March, 1813,

Sect. 8. The registrar of every diocese in England shall, on or before the 1st of July, 1814, and on or before the 1st of July in every subsequent year, make a report to the bishop of such diocese, whether the copies of the registers of the baptisms, marriages, and burials, in the several parishes and places within such diocese, have been sent to such registrar, in the manner and within the time herein required; and, in the event of any failure of the transmission of the copies of the registers, as herein required, by the churchwardens and chapelwardens of any parish or chapel in England, the registrar shall state the default of the parish or chapelry specially in his report to the bishop.

Sect. 9. In case the rector, vicar, or other officiating minister or curate, of any parish or chapelry, shall neglect or refuse to verify and sign such copies of such several register-books, and such declaration, as aforesaid, so that the churchwardens or chapelwardens shall not be able to transmit the same, as required by this act, such churchwardens or chapelwardens shall, within the time required by this act for the transmission thereof, certify such default to the registrar of the diocese within which such parish or chapelry shall be, who shall specially state the same in his report to the bishop of such diocese.

Sect. 10. And, for the obtaining of returns and registers of baptisms and burials in extra-parochial places in England, where there is no church or chapel, it is enacted that, in all cases of the baptism of any child, or the burial of any person, in any extra-parochial place in England, according to the rites of the Established Church, where there is no church or chapel, it shall be lawful for the officiating minister, within one month after such baptism or burial, to deliver to the rector, vicar, or curate, of such parish immediately adjoining to the place in which such baptism or burial shall take place, as the ordinary shall direct, a memorandum of such baptism or burial, signed by such parent of the child baptised, or a memorandum of such burial, signed by the person employed about the same, together with two of the persons attending the same, according as the nature of the case may respectively require; and every such memorandum respectively shall contain all such particulars as are herein-before required; and every such memorandum delivered to the rector, vicar, or curate, of any such adjoining parish or chapelry, shall be entered in the register of his parish, and form a part thereof.

Sect. 11. The superscription upon all letters and packets containing the copies of such parish or other registers, to be transmitted by the post to the several offices of the said registrars, as aforesaid, shall be indorsed and signed by the churchwardens or chapelwardens of every respective parish and chapelry in England, in the form contained in schedule E.; and all such letters and packets shall be carried and conveyed by means of his majesty's post-office to, and be delivered at the offices of, the said registrars, without postage or other charge being paid or payable for the same.

Sect. 12. When and so often as the copies of the said register-books of baptisms, marriages, and burials, as aforesaid, and also the said lists of births, baptisms, marriages, or burials, as aforesaid, shall be transmitted to the office of the said registrars respectively, as aforesaid, pursuant to the directions herein-before contained for that purpose, the said registrars shall respectively cause all the said books and lists to be safely and securely deposited, kept, and preserved, from damage or destruction by fire or otherwise, and to be carefully arranged, for the purpose of being resorted to, as occasion may require; and the said registrars respectively shall also cause correct alphabetical lists to be made, and kept in books suitable to the purpose, of the names of all persons and places mentioned in such books and lists as shall have been transmitted to the said registrars respectively; which alphabetical lists and books, and also the copies of registers and lists so transmitted to the said registrars, as aforesaid, shall be open to public search at all reasonable times, on payment of the usual fees.

Sect. 13. And whereas in many dioceses the places wherein the copies of the parochial registers of baptisms, marriages, and burials, as well as the original wills proved within the same respectively, are kept, are insufficient

for their being preserved with due care, for which a remedy should be applied in those dioceses where it shall be found necessary, it is enacted that, in order to a due examination thereof, the bishop, together with the custodes rotulorum of the several counties within each diocese, and the chancellor thereof, shall, before the 1st of February, 1813, cause a careful survey to be made of the several places in which the parochial registers, and the wills proved within the diocese, are kept, and shall make a report to his majesty's most honourable Privy Council of the state of the same, on or before the 1st day of March following, setting forth in each case whether the buildings are in all respects fit and proper for the preservation of papers of the above description, as well with respect to space as to security from fire, and to protection from damp, and if not, at what probable expense they can be made so; and where the instruments and papers before mentioned are kept in dwelling-houses, or other places, which cannot be made fit and secure for the due preservation thereof, then, and in such case, the persons before named shall inquire and report in like manner at what expense proper buildings may be provided, and in what places, so as to have one place within each diocese for the due preservation of all such registers and wills, together with their opinion upon the most suitable mode of remunerating the officers employed in each registry, for their additional trouble and expense in carrying the provisions of this act into execution.

Sect. 16. Nothing in this act contained shall in any manner diminish or increase the fees heretofore payable or of right due to any minister for the performance of any of the before-mentioned duties, or to any minister or registrar, for giving copies of such registrations, but that all due, legal, and accustomed fees on such occasions, and all powers and remedies for recovery thereof, shall be and remain as though this act had not been made.

Sect. 17. No duplicate or copy of any register of baptism, marriage, or burial, made under the directions and for the purposes of this act, shall be chargeable with any stamp duty thereon; any act now in force to the contrary thereof in anywise notwithstanding.

Sect. 18. One half of the amount of all fines or penalties to be levied in pursuance of this act, shall go to the person who shall inform or sue for the same; and the remainder of such fines as shall be imposed on any churchwarden or chapelwarden shall go to the poor of the parish or place for which such churchwarden or chapelwarden shall serve; and the remainder of such fines as shall be imposed on any rector, vicar, minister or curate, or registrar, shall be paid and applied to such charitable purposes, in the county within which the parish or place shall be, as shall be directed by the bishop of the diocese.

Sect. 19. The rector, vicar, curate, or officiating minister of every parish and chapelry in England, whether subject to the ordinary, peculiar, or other jurisdiction, shall transmit to the registrar of the diocese in which the parish or chapelry shall be situated, before the 1st day of June, 1813, a list of all registers which now are in such parish or chapelry respectively, stating the periods at which they respectively commence and terminate, the periods (if any) for which they are deficient, and the places where they are deposited.

Sect. 20. All the provisions in this act shall extend, so far as circumstances will permit, to cathedral and collegiate churches, and chapels of colleges or hospitals, and the burying-grounds belonging thereto; and to the ministers who shall officiate in such cathedral or collegiate churches, and chapels of colleges or hospitals, and burying-grounds respectively, and shall baptize, marry, or bury any person or persons, although such cathedral or collegiate churches or chapels of colleges or hospitals, or the burying-grounds belonging thereto, may not be parochial, or the ministers officiating therein may not be, as such, parochial ministers, and there shall be no churchwarden or churchwardens thereof; and in all such cases, the books hereinbefore directed to be provided, shall be provided at the expense of the body having right to appoint the officiating minister in every such cathedral or collegiate church or chapel of a college or hospital; and copies thereof shall be transmitted to the registrar of the diocese within which such cathedral or collegiate church or chapel of a college or hospital shall be, by the officiating minister of such

22 Geo. 3, c. 146.

respecting proper places for the preservation of copies of register-books, as well as original wills, in each diocese, and for remuneration of registrars' officers.

Fees heretofore payable not to be altered by this act.

Annual copy of register-books not subject to stamp duty.

Application of penalties.

Lists of all extant register-books to be transmitted by the officiating minister to the registrar before 1st June, 1813.

Provisions of this act to extend to churches and chapels not parochial.

52 Geo. 3, c. 146.

Not to repeal any provision of the marriage act, 26 G. 2. c. 33.

1 Will. 4, c. 66. Inserting any false entry in any register of baptisms, &c.

forging or altering any such entry; uttering any false or forged entry; destroying the register; forging any licence of marriage; transportation for life, &c.

Rector, &c. not liable to any penalty for correcting, in the mode prescribed, accidental errors in register.

Inserting in any copy of a register of baptisms, marriages, or burials, transmitted to the registrar, any false entry; or forging or verifying any copy, knowing it to be false; transportation for seven years, &c.

church, in like manner as is herein directed with respect to parochial ministers, and shall be attested by two of the officers of such church, college, or hospital, as the copies of parochial registers are herein directed to be attested by churchwardens: provided always, that nothing in this act contained shall extend to repeal any provision contained in an act passed in the twenty-sixth year of the reign of his late Majesty King George the Second, intituled *An Act for better preventing Clandestine Marriages*.

The 1 Will IV. c. 66, (which repeals the 14th & 15th sections of 52 Geo. III. c. 146,) s. 20, enacts, "that if any person shall knowingly and wilfully insert, or cause or permit to be inserted, in any register of baptisms, marriages, or burials, which hath been or shall be made or kept by the rector, vicar, curate, or officiating minister of any parish, district-parish, or chapelry in England, any false entry of any matter relating to any baptism, marriage, or burial; or shall forge or alter in any such register any entry of any matter relating to any baptism, marriage, or burial; or shall utter any writing as and for a copy of an entry in any such register of any matter relating to any baptism, marriage, or burial, knowing such writing to be false, forged, or altered; or if any person shall utter any entry in any such register of any matter relating to any baptism, marriage, or burial, knowing such entry to be false, forged, or altered, or shall utter any copy of such entry, knowing such entry to be false, forged, or altered, or shall wilfully destroy, deface, or injure, or cause or permit to be destroyed, defaced, or injured, any such register or any part thereof; or shall forge or alter, or shall utter, knowing the same to be forged or altered, any licence of marriage; every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, nor less than two years."

Sect. 21, provides and enacts, "that no rector, vicar, curate, or officiating minister of any parish, district-parish, or chapelry, who shall discover any error in the form or substance of the entry in the register of any baptism, marriage, or burial respectively by him solemnized, shall be liable to any of the penalties herein mentioned, if he shall, within one calendar month after the discovery of such error, in the presence of the parent or parents of the child baptized, or of the parties married, or in the presence of two persons who shall have attended at any burial, or in the case of the death or absence of the respective parties aforesaid, then in the presence of the churchwardens or chapelwardens, correct the entry which shall have been found erroneous, according to the truth of the case, by entry in the margin of the register wherein such erroneous entry shall have been made, without any alteration or obliteration of the original entry, and shall sign such entry in the margin, and add to such signature the day of the month and year when such correction shall be made; and such correction and signature shall be attested by the parties in whose presence the same are directed to be made as aforesaid: provided also, that in the copy of the register which shall be transmitted to the registrar of the diocese, the said rector, vicar, curate, or officiating minister, shall certify the corrections so made by him as aforesaid."

Sect. 22, after reciting that "copies of the registers of baptisms, marriages, and burials, such copies being signed and verified by the written declaration of the rector, vicar, curate, or officiating minister of every parish, district-parish, and chapelry in England where the ceremonies of baptism, marriage, and burial may lawfully be performed, are directed by law to be made and transmitted to the registrar of the diocese within which such parish, district-parish, or chapelry may be situated:" enacts, "that if any person shall knowingly and wilfully insert, or cause or permit to be inserted, in any copy of any register so directed to be transmitted as aforesaid, any false entry of any matter relating to any baptism, marriage, or burial, or shall forge or alter, or shall utter, knowing the same to be forged or altered, any copy of any register so directed to be transmitted as aforesaid, or shall knowingly and wilfully sign or verify any copy of any register so directed to be transmitted as aforesaid, which copy shall be false in any part thereof, knowing the same to be false, every such offender shall be guilty of

Parish Registers.

11

felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years nor less than one year." See the decisions and law as to forgery in general, *ante*, *Forgery*, Vol. II.

Schedules to the 52 Geo. 3, c. 146.

Schedule (A.)

1.					
Baptisms solemnized in the Parish of St. A., in the County of B., in the year one thousand eight hundred and .					
When Baptized.	Child's Christian Name.	Parent's Name.		Abode.	By whom the Ceremony was performed.
		Christian	Surname.		
18—.		William			
1st February	John Son of	Elizabeth		Lambeth	
No. 1.					
3d March	Ann	Henry		Fulham	
No. 2.	Daughter of	Martha			

Schedule (B.)

1.					
Marriages solemnized in the Parish of St. A., in the County of B., in the year one thousand eight hundred and					
[N. B.—The following form of entry is not precisely like the one prescribed by the schedule (B.) of the 52 Geo. III. c. 146, but is framed to meet the provision of and form given by the 4 Geo. IV. c. 76, s. 28, which see, <i>ante</i> , <i>Marriage</i> , Vol. III.]					
<p>A. B. of { the } Parish, and C. D. of { the } Parish, were</p> <p>married in this { Church } by { Banns, } with Consent</p> <p>of { Parents, } this day of in the year .</p> <p>Guardians, }</p> <p>By me, J. J. { Rector.</p> <p>{ Vicar.</p> <p>{ Curate.</p> <p>This marriage was solemnized between us { A. B.</p> <p>{ C. D.</p> <p>In the presence of { E. F.</p> <p>{ G. H.</p>					

Schedule (C.)

1.				
Burials in the Parish of A., in the County of B., in the year one thousand eight hundred and				
Name.	Abode.	When Buried.	Age.	By whom the Ceremony was performed.
John Wilson.	Duke Street,	1813,		
No.	Westminster.	1st May.	62.	

Parish Registers.

Schedule (D.)

I, _____, do hereby certify, that I did, on the _____ day of _____, baptize, according to the rites of the United Church of England and Ireland, _____, son [or, "daughter"] of _____ and _____ his wife, by the name of _____ To the Rector [or, as the case may be] of _____.

I, _____, do hereby certify, that on the _____ day of _____, A. B., of _____, aged _____, was buried in [stating the place of burial], and that the ceremony of burial was performed according to the rites of the United Church of England and Ireland, by me, _____ To the Rector [or, as the case may be] of _____.

Schedule (E.)

To the Registrar of the Diocese of _____, at _____.

A. B. } Churchwardens [or, "Chapelwardens"] of the Parish [or, "Chapelry"] of _____
 C. D. } _____ [or, such other description as the case shall require.]

Parliament.

AS to proof of acts of Parliament, see Vol. II. *Evidence*.

As to the effect of proof of journals of, see Vol. II. *Evidence*.

As to the construction of, and other points relative to, acts of Parliament, see *post*, *Statutes*.

I. *Matters previous to the Election, 13.*

[7 & 8 Wil. III. c. 25; 18 Geo. II. c. 18; 19 Geo. II. c. 28; 25 Geo. III. c. 84; 33 Geo. III. c. 64; 53 Geo. III. c. 89; 7 Geo. IV. c. 55; 9 Geo. IV. c. 59.]

II. *Election to be free, 15.*

[3 Edw. I. c. 5; 1 Wil. III. sess. 2, c. 2; 5 Wil. III. c. 20; 12 & 13 Wil. III. c. 10; 2 Anne, c. 10; 9 Anne, c. 11; 8 Geo. II. c. 30.]

III. *Qualification of the Candidates, 16.*

[30 Chas. II. st. 2, c. 1; 7 & 8 Wil. III. c. 25; 6 Anne, c. 7; 9 Anne, c. 5; 1 Geo. I. st. 2, c. 56; 33 Geo. II. c. 20; 22 Geo. III. c. 45; 25 Geo. III. c. 52; 41 Geo. III. (U. K.) c. 52, c. 63, c. 101; 52 Geo. III. c. 144; 54 Geo. III. c. 37; 59 Geo. III. c. 37; 3 Geo. IV. c. 55; 7 & 8 Geo. IV. c. 36; 10 Geo. IV. c. 7; 10 Geo. IV. c. 44.]

IV. *Qualification of the Electors, and herein of Bribery, 19.*

[8 Hen. VI. c. 7; 10 Hen. VI. c. 2; 7 & 8 Wil. III. c. 4; 7 & 8 Wil. III. c. 25; 6 Anne, c. 23; 10 Anne, c. 23; 2 Geo. II. c. 24; 18 Geo. II. c. 18; 19 Geo. II. c. 28; 3 Geo. III. c. 15, c. 24; 18 Geo. III. c. 59; 20 Geo. III. c. 17; 22 Geo. III. c. 41; 25 Geo. III. c. 84; 26 Geo. III. c. 100; 30 Geo. III. c. 35; 42 Geo. III. c. 116; 51 Geo. III. c. 84, c. 99; 53 Geo. III. c. 123; 7 & 8 Geo. IV. c. 37; 10 Geo. IV. c. 7.]

V. *Polling, 26.*

[2 Geo. II. c. 24; 25 Geo. III. c. 84; 34 Geo. III. c. 73; 42 Geo. III. c. 62; 43 Geo. III. c. 74; 7 & 8 Geo. IV. c. 37; 9 Geo. IV. c. 59.]

VI. *Return, and Expenses of Election, 28.*

[7 Hen. IV. c. 15; 7 & 8 Wil. III. c. 7, c. 25; 10 Anne, c. 23; 10 Geo. III. c. 16; 11 Geo. III. c. 42; 14 Geo. III. c. 15; 25 Geo. III. c. 84; 28 Geo. III. c. 52; 32 Geo. III. c. 1; 36 Geo. III. c. 59; 42 Geo. III. c. 84; 47 Geo. III. c. 1; 53 Geo. III. c. 71; 9 Geo. IV. c. 22.]

VII. Privilege of Parliament, 30.

[12 and 13 Wil. c. 3; 11 Geo. II. c. 24; 4 Geo. III. c. 33; 10 Geo. III. c. 50; 45 Geo. III. c. 124; 52 Geo. III. c. 144; 6 Geo. IV. c. 16.]

VIII. How long the Parliament shall continue, 32.

[1 Geo. I. st. 2, c. 38; 7 & 8 W. III. c. 15; 6 Anne, c. 7.]

IX. When an Act of Parliament shall take Date, 32.

[33 Geo. III. c. 13; 48 Geo. III. c. 106.]

X. Improperly procuring an Election, 33.

[49 Geo. III. c. 118.]

I. Matters previous to the Election.

The 53 Geo. III. c. 89, for the more regular Conveyance of Writs for the Election of Members to serve in Parliament, enacts, s. 1, that the messenger, or pursuant of the great seal, shall, after the receipt of such writs, forthwith carry such of them as shall be directed to the sheriffs of London or Middlesex, to the respective officers of such sheriffs, and all such other writs to the general post-office in London, and there deliver them to the postmaster-general or his deputy, who shall give an acknowledgment in writing, expressing therein the time of delivery, and shall keep a duplicate of such acknowledgment, signed by the parties respectively to whom and by whom the same shall be so delivered; and that the postmaster or his deputy shall despatch all such writs free of postage, by the first post or mail after the receipt thereof, under covers directed to the proper officers to whom the said writs shall be respectively directed, accompanied with proper directions to the postmaster or deputy postmaster of the place, or nearest to the place, where such officers shall hold their office, requiring such postmaster or deputy forthwith to carry such writs respectively to such office, and to deliver them there to the officers to whom they shall be respectively directed, or their deputies, who are required to give to such postmaster or deputy a memorandum in writing, acknowledging the receipt of every such writ, and setting forth the day and the hour the same was delivered by such postmaster or deputy, which memorandum shall also be signed by such postmaster or deputy, who are required to transmit the same by the first or second post afterwards to the postmaster-general or his deputy, at the general post-office in London, who are required to make an entry thereof in a proper book for that purpose, and to file the memorandum along with the duplicate of the said acknowledgment, signed by the messenger, to the intent that the same may be inspected or produced upon all proper occasions, by any person interested in such elections.

53 G. 3, c. 89, directs the course in which election writs shall be forwarded by the messenger of the great seal, and through the post office.

The statute, after directing (s. 2 & 3,) that all persons to whom the writs for the election of members to Parliament ought to be and are usually directed shall, within a month, send to the postmasters-general an account of the places where they shall hold their offices, and so from time to time, as often as such places shall be changed, and of the post town nearest to such offices; or in case any such office shall be in London, Westminster, or Southwark, or within five miles thereof, shall send such account to the messenger of the great seal; proceeds to enact, (s. 4 & 5,) that after the death of the then messenger of the great seal, the allowances of *mileage* shall cease, except an allowance of two guineas on each writ for the election of a member on any vacancy, and of 50*l.* on the calling of a new Parliament. And it further enacts, that whereas the messenger of the great seal and his deputy have, from time to time, received certain other fees for the conveyance and

Persons to whom such writs are usually directed, must give an account of the places of their offices.

Mileage and other fees abolished, except two guineas on a vacancy, and 50*l.* on a new Parliament.

**ELECTION,
MATTERS PRE-
VIOUS TO.**

upon the delivery of these writs, such fees shall cease from the passing of the act; and that neither the messenger nor his deputy, nor any other person, shall receive or take any fee, reward, or gratuity whatsoever, for the conveyance or delivery of any such writ.

And sect. 5. further proceeds to give to the then messenger an annual allowance for his life of 520*l.* in compensation for these fees.

Persons acting in violation of the act guilty of a misdemeanor.

Sect. 6. Enacts, that every person concerned in the transmitting or delivery of any such writ as aforesaid, who shall wilfully neglect or delay to deliver or transmit any such writ, or accept any fee, or do any other matter or thing in violation of this act, shall be guilty of a misdemeanor, and may, upon conviction upon any indictment or information in his majesty's Court of King's Bench, be fined and imprisoned, at the discretion of the court, for such misdemeanor.

Sect. 7. Offences committed in Scotland may be punished by a fine or imprisonment, as the judge before whom the offender shall be tried and convicted may direct.

Time of proceeding to the election in counties.

By the 7 & 8 Wil. III. c. 25, s. 1, when any new Parliament shall be summoned, there shall be forty days between the teste and return of the writ; and, as well upon the calling of any new Parliament as upon a vacancy in Parliament time, the writ shall be delivered to the proper officer to whom the execution thereof doth belong, and to no other person. And every such officer, upon receipt of the writ, shall indorse thereon the day that he received it, and shall forthwith make out a precept, and within three days after the receipt of the writ, shall deliver such precept to the proper officer of the place where any member is wanting, and to no other person; and such officer, upon the back of such precept, shall indorse the day of his receipt thereof, in the presence of the party from whom he received the same, and shall forthwith cause public notice to be given of the time and place of election, and shall proceed to election thereupon within eight days next after his receipt of such precept, and give four days' notice at least of the day appointed for the election.

Notice of time and place of elections to be given within certain hours.

By the 33 Geo. III. c. 64, s. 1, all notices of the time and place of any election shall be publicly given at the usual place or places, within the hours of eight in the forenoon and four in the afternoon from 25th October to 25th March, and of eight in the forenoon and six in the afternoon from 25th March to 25th October inclusive; and no notice shall be deemed or taken to be a good or valid notice for any purpose, or to any effect whatsoever, which shall not be made and published in the manner and within the time of the day aforesaid.

And by the 25 Geo. III. c. 84, s. 4, upon an election of a knight of the shire, the sheriff shall, within two days after the receipt of the writ, cause proclamation to be made at the place where the ensuing election ought by law to be holden of a special county court to be there holden for the purpose of such election only, on any day, Sunday excepted, not later from the day of making such proclamation than the sixteenth day, nor sooner than the tenth day; and shall proceed in such election, at such special county court, in the same manner as if the said election were to be held at a county court, or an adjournment thereof, according to the laws now in being.

Sect. 4. Provided, that the usual county court for all other purposes, or any adjournment thereof, may be held and proceeded in by the sheriff, in the same manner, and at the same times and places, as if the writ for the election of a knight of the shire had not been received.

Clerks for taking the poll.

By the 7 & 8 Wil. III. c. 25, s. 3, in every election of any knight of the shire, the sheriff shall appoint such number of clerks as he shall think fit for taking the poll, in the presence of himself or deputy.

Inspectors.

And by the same statute the sheriffs shall admit one person for each candidate to be inspector of the clerks.

Booths to be erected.

If a contest be expected, and there are several candidates, the sheriff may, by 18 Geo. II. c. 18, s. 7, erect, at the expense of the candidates, such number of booths for taking the poll as the candidates or any of them shall, three days at least before the commencement of the poll, desire; not exceeding

the number of hundreds or other like division, and not exceeding fifteen in the whole; and shall affix, on the most public part of each, the name of the hundred for which such booth is designed.

And shall make out a list for each booth of the several towns, parishes, and hamlets, wholly or in part, within such hundred; and shall, on request, deliver a copy to any of the candidates, paying for the same 2s. *Ibid.*

And shall appoint clerks at each booth to take the poll; who shall be paid by the candidates, not exceeding each one guinea a-day. *Ibid.*

In the county of York, the sheriff must erect such number of convenient booths for the poll, as any of the candidates, three days before the election, shall desire. 7 Geo. IV. c. 55.

By the 9 Geo. IV. c. 59, whenever at an election for any city, borough, town, or port, in England or Wales, where the number of electors exceeds 600, more candidates than the city, &c., may return are put in nomination, and a poll demanded, the returning officer being required in writing by a candidate or his agent, must divide the polling place into compartments, according to the number of votes, with accommodation for a poll-clerk, agent, and check-clerk, for each candidate, and a separate avenue for the voters; and if the usual polling-place be not sufficiently large, another may be used, as near it as is practicable, within the precincts of the city, &c.; and for each compartment a clerk must be provided by the returning officer, to take the poll and administer the requisite oaths, at not more than a guinea a day; the reasonable expenses to be defrayed by the candidates; or if they do not declare their assent, by such persons as nominate them.

Arrangements where more candidates than city can return are put in nomination.

Sect. 9 of 18 Geo. II. c. 18, enacts, that the sheriff shall allow a check-book for every poll-book, for each candidate; to be kept by their inspectors, at every place where the poll shall be taken.

Check-book.

By the 7 & 8 Wil. III. c. 25, s. 1, with respect to cities, boroughs, and towns corporate, the sheriff or other officer who received the writ shall forthwith make out a precept to each borough, town corporate, or place within his jurisdiction where any members are to be elected, and within three days, (and in the Cinque Ports within six days, 10 & 11 Wil. III. c. 7,) after receipt of the said writ, shall by himself or proper agent deliver the precept to the proper officer of such borough, town corporate, or place within his jurisdiction, to whom the execution of such precept doth belong, and to no other person whatsoever. And every such officer shall indorse the day of his receipt thereof in presence of the party of whom he received the same, and shall forthwith cause public notice to be given of the time and place of election, and shall proceed to the election within eight days after the receipt of the precept, and give four days' notice at least of the day appointed for the election.

In cities, boroughs, and towns corporate.

Cinque ports.

By the 19 Geo. II. c. 28, s. 6, 7, in a city or town, being a county of itself, the sheriff shall forthwith, on receipt of the writ, give public notice of the time and place of election, and proceed to election thereupon within eight days next after the receipt of the writ, and give three days' notice thereof at least, exclusive of the day of receipt of the writ and of the day of election: and the sheriff shall allow a check-book for every poll-book for each candidate, to be kept by their inspectors at the place of taking the poll.

In cities or towns being counties of themselves.

II. Election to be Free.

By the 3 Edw. I. c. 5, because elections ought to be free, the king commandeth, upon great forfeiture, that no man, by force of arms, nor by malice or menacing, shall disturb any to make free election.

Elections to be free.

By the declaration of rights, 1 Wil. III. sess. 2, c. 2, it is insisted, that elections of members of Parliament ought to be free; and that freedom of speech, and debates of proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

And by the 8 Geo. II. c. 30, on notice of an election, the secretary at war shall send orders for the removal of soldiers one day at least before the

Soldiers to be removed.

ELECTION :
CANDIDATES.Officers of the
post-office, &c.
not to interfere.

election, and not to return till after the poll shall be closed. But this not to extend to the guards, nor to any castle or fortified place, where a garrison is usually kept; nor to any officer or soldier having right to vote at such election. See 1 *Peckw.* 89.

By the 9 Anne, c. 10, s. 44, no officer of the post-office shall, by word, message, or writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving, his vote in any election.—By the 5 Wil. III. c. 20, and 9 Anne, c. 11, s. 4, there is the like provision with respect to the officers of excise.—And the like by the 12 & 13 Wil. III. c. 10, with respect to the officers of the customs.

Riots.

If riots are carried to a great extent, accompanied with personal intimidation, and exclude the possibility of a fair exercise of the franchise, they will avoid the election. *Orme*, 18; 1 *Peck*, 77.

III. Qualification, &c. of Candidates.

Infants.

By the 7 & 8 Wil. III. c. 25, s. 8, no person under the age of twenty-one years shall be capable of being elected.

Aliens.

Aliens, 4 *Inst.* 47, denizens or naturalized aliens, 12 & 13 Wil. III. c. 2, s. 3, are ineligible.

Persons attainted,
&c.

Persons attainted of treason or felony are ineligible. 4 *Inst.* 47. So are outlaws in criminal proceedings. 2 *Hats.* 37.

Absence.

Absence from England is no ground of ineligibility. *Simeon*, 51.

Clergymen
disabled.

By the 41 Geo. III. (U. K.) c. 63, s. 1, 2, no person ordained a priest or deacon, or being a minister of the church of Scotland, shall be capable of being elected a member of the House of Commons; but the election of such person shall be void.

Sect. 2. If any person, after his election, shall be ordained a priest or deacon, or such minister as aforesaid, he shall vacate his seat.

Penalty on sitting
or voting.

Sect. 3. If such person shall, in either of the two cases aforesaid, presume to sit or vote as a member of such house, he shall forfeit for each day he shall so sit or vote 500*l.* to any person who shall sue for the same in any of his majesty's courts at Westminster; and such penalty shall be recovered, with full costs, by action of debt, bill, plaint, or information: and every person against whom such forfeiture shall be recovered, shall be, from thenceforth, incapable of taking, holding, or enjoying any benefice, living, or promotion ecclesiastical, or any office of honour or profit under the crown.

Proof of voca-
tion.

Sect. 4. And proof of the celebration of divine service, according to the rites of the church of England or Scotland, in any church or chapel, consecrated, or set apart for public worship, shall be deemed *prima facie* evidence of the fact of such person having been ordained a priest, or deacon, or minister of the church of Scotland, within the meaning of this act.

Limitation of
action.

Sect. 3. But no person shall be liable to any such forfeiture, unless the prosecution be commenced within twelve calendar months after such forfeiture shall be incurred.

Judges.

The judges of England are ineligible. 4 *Inst.* 47.

Papists.

By the 30 Chas. II. s. 2, c. 1, no papist shall sit in either House of Parliament. But now, by the 10 Geo. IV. c. 7, they may do so on taking certain oaths therein prescribed. See *post*, *Papery*.

Placemen.

Sir William Blackstone says, no person concerned in the management of any duties or taxes created since 1692, except the commissioners of the treasury, nor any of the officers following (viz. commissioners of prizes, transport, sick and wounded, wine-licences, navy, and victualling; secretaries or receivers of prizes; comptrollers of the army accounts; agents for regiments; governors of plantations and their deputies; officers of Minorca and Gibraltar; officers of the excise and customs; clerks or deputies in the several offices of the treasury, exchequer, navy, victualling, admiralty, pay of the army or navy, secretaries of state, salt, stamps, appeals, wine-licences, hackney coaches, hawkers and pedlars), nor any persons that hold any new office under the crown cre-

ated since 1705, are capable of being elected or sitting as members. 1 *Blac. Com.* 175.

CANDIDATES.

By the 6 Anne, c. 7, s. 26, if any person, being chosen a member of the House of Commons, shall accept of any office of profit from the crown, during such time as he shall continue a member, his election shall be, and is hereby declared to be void, and a new writ shall issue for a new election, as if such person so accepting was naturally dead. Provided, nevertheless, that such person shall be capable of being again elected, as if his place had not become void, as aforesaid.

Accepting of office of profit while a member, election void, but may be again elected.

By the 22 Geo. III. c. 45, sect. 1, all persons holding contracts made with the commissioners of the treasury, navy, victualling-office, or board of ordnance, for or on account of the public service, shall, during the time they shall hold such contracts, be incapable of being elected, or of sitting or voting in the House of Commons.

Contractors.

An army-clothier, who contracts with a colonel of a regiment, or his agents, to furnish clothing for such regiment, is not within stat. 22 Geo. III. c. 45, which renders all persons holding contracts for the public service incapable of being elected or sitting in the House of Commons.—*Thomson, q. t. v. Pearce, Esq.* 3 *Moore, C. P.* 260.

By the 6 Anne, c. 7, sect. 25, no person having a pension from the crown during pleasure, shall be capable of being elected.

Pensioners.

Neither shall any person having a pension from the crown for any term of years, either in his own name, or in the name of any other in trust for him, be capable of being elected.

But a pension received by the wife does not disqualify the husband. *Reading Corb. Dan.* 114.

By the 41 Geo. III. (U. K.) c. 52, sect. 4, 5, persons who shall hold any of the following places in Ireland, shall be disabled to sit in the Commons House of the Parliament of the united kingdom, under similar penalties as incurred under former British or Irish acts, or if disabled by this act, to forfeit 500*l.* per diem: viz. commissioners of customs, excise, or stamps, or persons any ways concerned in farming, collecting, or managing any part of the revenue (except the commissioners of the treasury and their secretary); commissioners of appeals or of accounts, army-agents, contractors (except members of trading companies, as such); clerks of the treasury (except the secretary), or of the auditor's letters, or chancellor of the exchequer (except the chancellor's secretary), or of the commissioners of the stamps, or of appeals; and all persons who, in any future Parliament, shall hold new places under the lord-lieutenant.

Irish placements, &c.

Sect. 8. Provided, that nothing herein shall extend to offices held for life, or during good behaviour; except such as concern the revenue.

Sect. 2. But if any person, chosen a member, shall accept any office of profit from the crown, or by the appointment, or subject to the approbation of the lord-lieutenant, his seat shall become vacant; provided, nevertheless, that (if there be no other incapacity) he shall be again eligible.

Police magistrates, 3 Geo. IV. c. 55, s. 14, 10 Geo. IV. c. 44, s. 18, and receivers under the police, 10 Geo. IV. c. 44, s. 18, are ineligible.

Police magistrates, &c.

An office rendering the holder ineligible, if resigned previous to the election, though the resignation be not formally accepted, does not operate as a disqualification. 2 *Dougl.* 367.

Resigning office.

By the 9 Anne, c. 5, s. 1, no person shall be capable to sit or vote in the House of Commons for a county, unless he hath an estate, freehold or copyhold, for his life, or some greater estate, of the clear yearly value of 600*l.*; nor for a city or borough, unless he hath a like estate of 300*l.*

Qualification by estate.

Sect. 5. And any other candidate or two electors may, upon reasonable request to him made (at the time of the election, or before the day prefixed for the meeting of Parliament), require him to take the following oath:

I, A. B. do swear that I truly and bonâ fide have such an estate in law or equity, to and for my own use and benefit, of or in lands, tenements, or hereditaments, over and above what will satisfy and clear all incumbrances that may affect the same, of the annual

Oath of qualification.

CANDIDATES. value of above reprises, as doth qualify me to be elected and returned to serve as a member for the of , according to the tenor and true meaning of the act of Parliament in that behalf; and that my said lands, tenements, or hereditaments are lying or being within the parish, township, or precinct of, or in the several parishes, townships, or precincts of in the county of , or in the several counties of (as the case shall be.)

The same to be administered by the returning officer, or two justices; who shall, in three months, certify the same into the chancery or king's bench, under a penalty of 100*l.*; half to the king, and half to the informer.

Exceptions.

Sect. 2. Provided that nothing in the act shall extend to make the eldest son or heir apparent of any peer or lord of Parliament, or of any person qualified by this act to serve as knight of a shire, incapable of being elected and returned, and sitting and voting as a member of the House of Commons in any Parliament.

Qualification to be delivered in at the table of the House of Commons.

By the 33 Geo. II. c. 20, every member, before he shall vote in the House of Commons, or sit there during any debate, shall, after the speaker is chosen, deliver in at the table in the middle of the house, whilst the house is there sitting, with the speaker in the chair, an account signed by such member, containing the name of the place where his qualification lies, declaring the same to be of the annual value of 600*l.* above reprises, if a knight of a shire; and of 300*l.* if a citizen, burgess, or baron of a cinque port; and shall also at the same time take and subscribe the oath following:—

Oath to be there taken.

I, A. B., do swear, that I truly and bonâ fide have such an estate in law or equity, and of such value, to and for my own use and benefit, of or in lands, tenements, or hereditaments, over and above what will satisfy and clear all incumbrances that may affect the same, as doth qualify me to be elected and returned to serve as a member for the place I am returned for, according to the tenor and true meaning of the acts of Parliament in that behalf; and that such lands, tenements, or hereditaments, do lie as described in the paper or account signed by me, and now delivered to the clerk of the House of Commons. So help me God.

Exceptions.

But this also shall not extend to the eldest son or heir apparent of a peer, or of any person qualified to serve as a knight of a shire, or to the members of either of the universities.

By the 41 Geo. III. (U. K.) c. 101, s. 23, the 33 Geo. II. c. 20, is extended to members elected to the united Parliament for England, Wales, Berwick-upon-Tweed, or Ireland. And the qualifications may be situate in either of those respective parts of the united kingdom.

By the 59 Geo. III. c. 37, after reciting the 9 Anne, c. 5; 33 Geo. II. c. 20; and 41 Geo. III. c. 101, it is enacted, that it shall be sufficient that such lands, tenements, or hereditaments, whereby any person who shall be elected a member of the House of Commons in the united kingdom shall make out his qualification in manner by the said acts, shall lie either within England, Wales, Berwick-upon-Tweed, Scotland, or Ireland.

Commissioners of accounts.

By the 25 Geo. III. c. 52, s. 25, the commissioners for auditing the public accounts shall be incapable of sitting in the House of Commons.

Member becoming a bankrupt.

By the 52 Geo. III. c. 144, s. 1, wherever a commission of bankruptcy shall be awarded against any member of the House of Commons, and he shall be found and declared a bankrupt under the same, he is incapacitated for the next twelve calendar months from sitting or voting in the house, unless within that period the commission shall be superseded, or the creditors proving their debts shall be paid or satisfied the full amount of their debts under the commission: the same clause having a proviso, that such debts, (if any) as shall be disputed by the bankrupt, (if he shall, within the same time, enter into security according to the directions of the act, to pay such money as shall be recovered against him in law or equity, together with the costs,) shall be considered, for the purposes of the act, as paid or satisfied.

By sect. 2, if the commission shall not within twelve calendar months be superseded, nor the debts so satisfied, then the commissioners are required, immediately after the expiration of twelve calendar months from the issuing of the commission, to certify the same to the speaker, and thereupon the election

of such member is to be void, and the speaker is authorized and required, during any recess, forthwith, after receiving such certificate, to cause notice thereof to be inserted in The London Gazette, and then, upon the expiration of fourteen days, to issue his warrant to the clerk of the crown to make out a new writ in the room of such member; but nothing herein shall empower the speaker to issue such warrant, unless such certificate shall have been delivered to him so long before the next meeting of the house for the despatch of business, as that the writ may be issued before that time.

CANDIDATES.

IV. Qualification of Electors, and herein of Burbery.

By the 7 & 8 Wil. 3, c. 25, s. 8, no person shall be admitted to vote under the age of twenty-one years. *Infants.*

Women cannot vote. 4 *Inst.* 5.

Women.

Nor can aliens, 12 *Journal*, 367; unless made denizens by letters patent, or naturalized by statute. *Shepherd*, 1. *Aliens.*

By the 6 Anne, c. 23, s. 13, every elector, before he is admitted to vote, shall, if required, take the oath of abjuration. *Abjuration oath.*

And papists were once disabled if they *refused* the oaths of allegiance, supremacy, or abjuration; but these disabilities have been removed in Ireland by 33 Geo. III. c. 21, 10 Geo. IV. c. 7, s. 5, and in Great Britain by 10 Geo. IV. c. 7, s. 5; and a particular oath is pointed out and set forth in the latter act, which see, *post*, *Shep.* *Papists.*

By the 22 Geo. III. c. 41, no person employed in managing the duties of excise, customs, stamp-duties, salt, houses and windows, or revenue of the Post Office, shall be capable of voting for a member to serve in Parliament; and if he shall presume to vote during the time that he shall hold such office, or within twelve calendar months after he shall have ceased to hold the same, his vote shall be void, and he shall forfeit 100*l.* See 1 *Fras.* 164; 1 *Pect.* 397; 2 *Lead.* 561, 558; *Shep.* 3. *Persons employed in the revenue.*

By the 51 Geo. III. c. 84, nothing in the 22 Geo. III. c. 41, shall extend to the coal-meters or corn-meters of the city of London, to render such coal-meters or corn meters incapable of giving their votes for members to serve in Parliament as other persons having a right of voting may do, provided such coal-meters and corn-meters shall not receive or be entitled to receive any salary, fee, or reward, payable out of the revenue of customs, or other public revenues of the crown. *Not to extend to coal-meters or corn-meters of the city of London.*

Police magistrates, receivers of fees at the police offices, and constables whilst they remain in office, and for three months afterwards, are incapable of voting for Middlesex, Surrey, Westminster, or Southwark, 54 Geo. III. c. 37, s. 15; and the same incapacity is extended to those of the Thames police, *id.* c. 187, s. 36; which disabilities are, with respect to the new police force, established by the 10 Geo. IV. c. 44, extended to six months after quitting office, and to the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and all cities and boroughs within the metropolitan district, under a penalty of 100*l.* 10 Geo. IV. c. 44, s. 18. *Shepherd*, 3. *Police magistrates, &c.*

Persons employed at elections, or within six months before, or a fortnight after, as counsel, agent, attorney, poll-clerk, flagman, or in any other capacity for the purposes of the election, are, if they receive at any time any money, &c., or place in consideration of such employment, disqualified. 7 & 8 Geo. IV. c. 36. *Persons employed in elections.*

The receipt of alms, or parish relief, as such, at any time within a limited time before the election, generally a year, 2 *Dougl.* 126, though in particular cases this period is extended either by act of Parliament, as in London (11 Geo. I. c. 18, s. 14), or by a determination of the House of Commons, 2 *Dougl.* 105; or special usage will disqualify the voter, *Shepherd*, 4, and the authorities there collected. Almsmen, or those living in alms-houses, 1 *Dougl.* 277. Where the right of voting accrues after the receipt of relief, *c* 2. *Receiving alms.*

<u>ELECTORS.</u>	as by marrying the daughter of a freeman, the previous relief within the year will not affect it. 1 <i>Peck</i> , 72.
Freehold of 40s. a-year.	By the 18 Geo. III. c. 59, s. 25, any relief given to the family of any militia-man during the time of actual service, shall not deprive such militia-man from voting for the election of any member to serve in Parliament. By the 8 Hen. VI. c. 7, every elector of a knight of the shire shall have land or tenement to the annual value of 40s. at the least, above all charges. The sheriff shall have power to examine upon oath every such chooser how much he may expend by the year. And by the 10 Hen. VI. c. 2, the said 40s. a-year shall be freehold. And by the 18 Geo. II. c. 18, s. 5, no person shall vote for a knight of the shire, without having freehold estate in the county of the clear value of 40s. over and above all rents and charges payable out of the same. Sect. 6. But taxes and assessments shall not be deemed a charge payable out of the lands.
Fraudulent conveyance.	Sect. 5. No person shall vote for any estate which was granted to him fraudulently, on purpose to qualify him to give his vote. By the 10 Anne, c. 23, s. 1, all such conveyances, fraudulently made to qualify any person to vote, subject to conditions to defeat the same, shall be deemed and taken as absolute against the person executing the same, and discharged of all trusts, conditions, and other defeasances; and all bonds, covenants, or other securities, for the defeating or re-conveying the same, shall be void.
Splitting votes.	By the 7 & 8 Wil. III. c. 25, s. 7, all conveyances to multiply voices, or to split and divide the interest in lands and houses among several persons, to enable them to vote, shall be void: and no more than one voice shall be admitted for one and the same house or tenement. See 2 <i>Peckw.</i> 29, 53.
None to vote more than once.	By the 18 Geo. II. c. 18, s. 5, no person shall vote in any election more than once.
Mortgage or trust estate.	By the 7 & 8 Wil. III. c. 25, s. 7, the mortgagor or <i>cestuique trust</i> shall vote; and not the trustee or mortgagee, unless he be in actual possession, or receipt of rents and profits.
Tenant in dower.	By the 20 Geo. III. c. 17, s. 12, husbands of women entitled to dower out of the estates of their former husbands may vote in respect thereof, although the said dower hath not been set out by metes and bonds; provided that the dower be worth 40s. a-year, and the husband be in actual receipt of the profits thereof.
Possession for twelve months.	By the 18 Geo. II. c. 18, s. 5, no person shall vote for a knight of the shire, without having been in the actual possession of the estate for which he votes, or in the receipt of the rents or profits thereof for his own use, above twelve calendar months; unless the same came to him by descent, marriage, marriage-settlement, devise, or promotion to a benefice or office. See <i>Shep.</i> 20
To be charged to the land-tax. Fee-farm rents, &c. Fee-farm rents, &c.	By the 20 Geo. III. c. 17, s. 1, no person shall vote for a knight of the shire in respect of any messuages, lands, or tenements, which have not for six calendar months next before such election been assessed to the land-tax in his own name, or in the name of his tenant occupying the same. But by s. 2, this shall not extend to annuities or fee-farm rents (duly registered) issuing out of the premises, nor to any person who became entitled to the premises as aforesaid within twelve calendar months next before such election; but such person shall be entitled to vote, if the premises have been assessed within two years next before in the name of the respective owner or occupier. See <i>Shep.</i> 21.
Persons entitled to vote at elections for lands whereon the land-tax hath been redeemed may vote without shewing that the same have been assessed to the land-tax.	By the 42 Geo. III. c. 116, s. 200, and whereas doubts may arise by reason of the provisions of an act, passed in the nineteenth year of the reign of his late Majesty King George the Second, intituled "An Act for better Regulating of Elections of Members to serve in Parliament for such Cities and Towns in that part of Great Britain called England, as are Counties of themselves;" and of another act passed in the twentieth year of the reign of his present Majesty, intituled "An Act to remove certain Difficulties relative to Voters at County Elections," as to the right of voting for the election of knights of the shire, or other members to serve in Parliament, by persons who may claim so to vote in

respect of messuages, lands, or tenements, the land-tax charged whereon may have been redeemed: it is enacted, that every person who shall tender his vote at the election of any knight or knights of the shire, or other member or members, to serve in Parliament within that part of Great Britain called England, or the principality of Wales, in respect of any messuages, lands, or tenements, of the quality and value which would by law entitle him to vote at such election, the land-tax charged whereon shall have been redeemed or purchased, shall, from and after the passing of this act, be entitled to vote at any such election as aforesaid, without being compelled to show that such messuages, lands, or tenements, have been assessed to the land-tax, upon proving to the satisfaction of the returning officer, on oath or otherwise, that such land-tax hath, at any time previously to such election, been redeemed or purchased, and the said messuages, lands, or tenements, become exonerated therefrom under the provisions of the acts for the redemption of land-tax, or of this act, the acts 19 Geo. II. c. 28, and 20 Geo. III. c. 17, or any other act or law to the contrary notwithstanding.

By sect. 120, proof of the execution of any deed by the commissioners, parties thereto, shall be sufficient evidence that every thing required was duly done.

By sect. 166, copies of the registers of contracts shall be good evidence of such contracts.

And by the 53 Geo. III. c. 123, s. 36, the like evidence applies to registers of certificates; and no certificate, or any copy of the register thereof, to be liable to any stamp.

And by the 20 Geo. III. c. 17, s. 19, the commissioners of the land-tax, at their meetings for appointing assessors, shall cause to be delivered to each assessor a printed form of an assessment, according to which they shall make their assessments; which shall be in this manner:—

County of N., to wit. } An assessment made in pursuance of an act of Parliament, Form of assess-
For the parish of _____, passed in the _____ year of his Majesty's reign, for granting ment.
in the said _____, an aid to his Majesty by a land-tax to be raised in Great Britain
county. } for the service of the year _____.

Names of Proprietors.	Names of Occupiers.	Sums Assessed.
A. B. _____	Himself. _____	— — —
A. B. _____	C. D. _____	— — —
E. F. _____	C. D. _____	— — —
C. D. _____	G. H. _____	— — —
J. K. } _____	N. O. _____	— — —
and } _____		
L. M. } _____	R. S. _____	— — —
P. Q. _____	and _____	
	T. U. _____	— — —

Signed this _____ day of _____, 18 ____ . By us, A. B. }
C. D. } Assessors.

By the 51 Geo. III. c. 99, s. 1, reciting that, by the 43 Geo. III. c. 116, s. 154, purchasers of land-tax charged upon manors, messuages, lands, tenements, and hereditaments, are, by virtue of that act, adjudged, deemed, and taken to be in the actual seisin and possession of yearly rents or sums, as fee-farm rents, equal in amount to the land-tax so purchased by them, to be issuing and payable out of the manors, messuages, lands, tenements, and hereditaments, whereon the land-tax so purchased was charged; and that no person is allowed by law to vote for electing any member of Parliament, in respect of any annuity, fee-farm rent, or rent-charge, without the same being first duly registered in manner directed by law; and that doubts had arisen whether any person could vote at an election for a member of Parliament in respect of any land-tax so purchased as aforesaid, without the same or some memorial of the contract or certificate for such purchase being first registered in the same manner as other fee-farm rents, rent-charges, and annuities or memorials of the

ELECTORS.

Registry of the purchase of land tax not necessary to entitle to vote at elections.

Persons may vote although tenant's name is not in the assessment.

grant thereof, required to be registered as aforesaid: it is enacted, that in order to entitle any person to vote at an election for a member of Parliament, in respect of land-tax so purchased as aforesaid, it shall not be necessary to have the same or any memorial of the contract or certificate of the purchase thereof registered, as other fee-farm rents and annuities, or a memorial of the grant thereof, are required by law to be registered, before any person can vote for electing a member of Parliament in respect thereof.

And by the 30 Geo. III. c. 35, after reciting that doubts had arisen, whether, if the form in 20 Geo. III. c. 17, be not strictly pursued, the suffrage of the person claiming to vote would be admissible, it is enacted, that nothing in the said act shall prevent any person from voting for any messuages, &c. on account of the tenant actually occupying the same not being inserted in such assessment according to the said form; or although the name of the person claiming to vote, or by or through whom he derives his title, or his predecessor, shall not be inserted in the assessment in the form aforesaid; provided such messuages, &c. have been assessed to the land-tax for six calendar months next before such election, in the name of the tenant actually occupying the same at the time of the assessment being made.

By the 20 Geo. III. c. 17, s. 3, if any person shall hold or occupy any messuages, &c. belonging to different owners, the same shall be separately rated, that the proportion of the land-tax to be paid by each separate owner may be ascertained.

Sect. 3. And they shall make three duplicates of such assessments; and shall (at least fourteen days before delivering the assessments to the commissioners) cause one of them, or a fair copy thereof, to be stuck up upon the door of the church or chapel, or if it be an extra-parochial or other place, where there is no church or chapel, then on the door of the church or chapel next adjoining.

Sect. 3. And the said duplicates shall be delivered to the commissioners, at their meeting for receiving the assessments.

Sect. 3. If the name of any owner entitled to vote shall not appear to be inserted in the assessment, he may, on giving notice in writing to one of the assessors, appeal to the said commissioners, who shall amend the assessment, as they shall see cause; and if any person shall think himself aggrieved by the determination of the commissioners, he may appeal to the next sessions, giving ten days' notice thereof to one of the commissioners who signed the duplicate, and to one of the assessors of the place where the estate lies; and the sessions may award costs to either of the parties, and by their order or warrant levy the same by distress. And if such commissioners, or the justices in sessions, upon any appeal before them respectively, shall find it requisite to insert the names of any persons who shall have been improperly omitted, such persons shall be deemed to be rated as effectually as if their names had been originally inserted.

Sect. 3. The commissioners shall cause one of the duplicates so amended (after having been signed and sealed by the said commissioners, or any three of them) to be returned to the assessors, who shall, within ten days, deliver the same to the chief constable, taking his receipt for the same; and the chief constable shall deliver upon oath such duplicate, without alteration, at the next sessions, in open court, the first day of the sessions, to the clerk of the peace, to be by him filed and kept amongst the records. And, if the assessor shall not deliver such duplicate, so amended, to the chief constable, or if the chief constable shall neglect to deliver the same to the clerk of the peace, or wilfully alter the same, he shall forfeit 5*l*. And, at the Michaelmas sessions yearly, the clerk of the peace shall examine whether all the said duplicates, respectively, have been delivered for that year; and, if it shall appear that any such duplicates have not been received by or delivered to such clerk of the peace by the chief constables, he shall report the same to the court, and the court shall immediately impose the said fine upon the chief constable, and the clerk of the peace shall give him immediate notice thereof; and, if not immediately paid, the justices of such sessions shall, by order of the court, issue a warrant of distress for the recovery thereof, directed to the constable of the place where such chief constable shall dwell. But, if the chief constable shall make oath at such

sessions that such duplicate was not delivered to him by the assessor, the said fine shall be imposed upon such assessor or assessors; and the justices shall, by order of the court, issue a warrant of distress for the recovery thereof, directed to the constable of the place, or other such person as they shall think proper, and shall require the chief constable to give notice to such assessor of the said fine being imposed, who shall, within fourteen days, give such notice accordingly; and, if such assessors, or one of them, shall not deliver such duplicate to the clerk of the peace within ten days after such notice, then the warrant of distress shall be put in execution against such assessor accordingly. But, if the assessor shall, within ten days after such notice, produce to the clerk of the peace the chief constable's receipt for such duplicate, then the fine shall be levied on the said chief constable, as aforesaid. Which said fines, when recovered, shall be paid to the treasurer, and applied as part of the county stock.

Sect. 9. Whenever any assessment shall not have been made by the assessors, and returned to the chief constable, and by him to the clerk of the peace, the justices in sessions, or any two justices out of sessions, may order such assessments forthwith to be made and returned in manner aforesaid.

Sect. 13. And all persons may, at any reasonable times, inspect the duplicates in the hands of the clerk of the peace, paying 1s. for each inspection; and the clerk of the peace shall, on demand, deliver copies of the whole or any part thereof (signed by him, purporting the same to be a true copy), being paid at the rate of 6d. for every three hundred words; which said duplicates or copies thereof, signed as aforesaid, and also the duplicate of any assessment in the possession of the commissioners, or in the possession of the receiver-general, or a copy of the said duplicates, signed by such commissioners, and purporting the same to be a true copy, shall be admitted as legal evidence. And, after issuing the writ for the election, the clerk of the peace or his deputy shall attend gratis from day to day, from the hour of nine in the forenoon to three in the afternoon, at the place where the records are usually kept, from the time of delivery of such notice to the day immediately preceding the day of election, for the purpose of inspection and making the copies; and, if he shall fail of his duty in any of the said particulars, he shall forfeit £500, with full costs, to the party grieved, if the action be brought within two months, or otherwise to any person who shall sue within twelve calendar months, and shall also forfeit his office, and be incapacitated for holding the like office for the future.

Sect. 14. Finally, the clerk of the peace shall, on reasonable notice, attend at the election of every knight of the shire, with the original duplicates, at the request of any candidate, paying to him after the rate of two guineas for each day of his attendance, and 1s. 6d. a mile for the costs and charges in his journey from the place of his abode to and from the place of election.

By the 18 Geo. II. c. 18, s. 1, every freeholder, before he is admitted to poll for a knight of the shire, shall, if required by a candidate or any elector, take the following oath (to be administered by the sheriff, under-sheriff, or one of the sworn clerks):—

You shall swear [or, being one of the people called Quakers, "you shall solemnly affirm"] that you are a freeholder in the county of _____, and have a freehold estate, consisting of _____ [specifying the nature of such freehold estate, whether messuage, land, rent, tithe, or what else; and, if such freehold estate consists in messuages, lands, or tithes, then specifying in whose occupation the same are; and if in rent, then specifying the names of the owners or possessors of the lands or tenements, out of which such rent is issuing, or of some or one of them], lying or being at _____, in the county of _____, of the clear yearly value of 40s., over and above all rents and charges payable out of or in respect of the same; and that you have been in the actual possession or receipt of the rents or profits thereof, for your own use, above twelve calendar months, or that the same came to you, within the time aforesaid, by descent, marriage, marriage-settlement, devise, or promotion to a benefice in a church, or by promotion to an office; and that such freehold estate has not been granted or made to you fraudulently, on purpose to qualify you to give your vote; and that the place of your abode is at _____, in _____, and that you are twenty-one years of age, as you believe; and you have not been polled before at this election.

And if he falsifies, he shall suffer as in cases of perjury. See 2 Peckw. 19, 21.

If assessment be not made.

Duplicates may be inspected.

Freeholders' oath.

ELECTORS.

By the 10 Anne, c. 23, s. 5, the sheriff and clerks shall enter, not only the place of his freehold, but also the place of his abode, as he shall declare the same at the time of giving his vote; and shall enter *jurat* against the name of every such voter who hath taken the oath.

And, by the 19 Geo. II. c. 28, s. 2, the aforesaid 18 Geo. II. c. 18, shall extend to cities and towns that are counties of themselves, where persons have a right to vote in respect of a freehold of 40s. a year; but not where they have a right to vote in respect of burgage tenure, or where the right to vote for a freehold doth not require the same to be of 40s. a year.

Annuity and leaseholders.

By the 3 Geo. III. c. 24, s. 1, no persons shall vote for electing a knight of a shire, or member for a city or town, being a county of itself, in respect of any annuity or rent-charge granted before June 1, 1763, unless a certificate upon oath shall have been entered with the clerk of the peace or town-clerk twelve months before the election, as follows:—

I, A. B., of _____, am really and bonâ fide seized of an annuity or rent-charge, for my own use and benefit, of the clear yearly value of 40s., above all rents and charges payable out of the same, wholly issuing out of freehold lands, tenements, or hereditaments, belonging to C. D., of _____, situate, lying, and being, in the parish, township, or place, or in the parishes, townships, or places, of E., in the county of _____, without any trust, agreement, matter, or thing, to the contrary notwithstanding; and I, or the person or persons under whom I claim, was or were seized of the said annuity or rent-charge before the first day of June, 1763.

Sect. 2. And a like certificate shall be entered (*mutatis mutandis*) where such rent-charge came by descent, marriage, devise, or promotion to a benefice or office.

Memorial of the grant of an annuity to be registered.

Sect. 3. And no person shall vote at such election in respect of any annuity or rent-charge granted after June 1, 1763, unless a memorial of the grant of such annuity or rent-charge shall have been registered with the clerk of the peace or town-clerk twelve calendar months at least before the first day of such election; which memorial shall be written on parchment, and directed to the clerk of the peace or town-clerk, and shall be under the hand and seal of the grantor, and attested by two witnesses, one whereof to be one of the witnesses to the execution of such grant; which witness shall, upon oath before such clerk, prove the sealing and delivery of the grant, and the signing and sealing of the memorial.

Sect. 3. The said memorial shall contain the day and year of the date, and the names, additions, and abodes, of the parties and witnesses, and all the lands and tenements out of which the rent-charge issues, and the place where they lie.

Sect. 3. The grant shall, at the time of entering the memorial, be produced to such clerk of the peace or town-clerk, who shall indorse thereon a certificate, in which shall be mentioned the day and year on which such memorial shall be entered.

Sect. 4. And no person shall vote by reason of an assignment of such annuity or rent-charge without like certificate, entry, and memorial, of such grant and assignment, as in case of an original grant.

Sect. 5. The clerk of the peace or town-clerk to have for the entry of such certificate 1s., and of the memorial 2s.; for search thereof 1s., and for copies at the rate of 6d. for every two hundred words.

Occasional free-men in corporations.

By the 3 Geo. III. c. 15, s. 1, no person, claiming as a freeman to vote at an election for any city, town, port, or borough, shall be admitted to poll, unless he hath been admitted to his freedom twelve calendar months before the first day of the election; and, if he shall presume to vote contrary thereto, he shall forfeit £100, and his vote shall be void.

Sect. 3. And if any person shall antedate such admission, he shall forfeit £500.

Sect. 8. But nothing herein shall extend to the cities of London or Norwich, nor to any person entitled to his freedom by birth, marriage, or servitude, according to the custom of such city, town, port, or borough.

Any person voting as an inhabitant paying

By the 26 Geo. III. c. 100, s. 1, no person shall be admitted to vote at any election for any city or borough, as an inhabitant paying scot and lot, or an

inhabitant, householder, housekeeper, and potwaller, legally settled, or resident, or as an inhabitant thereof, unless he shall have been actually and *bonâ fide* an inhabitant within such city or borough for six calendar months previous to the day of election; and such vote shall be null and void, and he shall forfeit £20, to be recovered in the courts at Westminster within six months; but the same shall not extend to any person who shall acquire the possession of any house in such city or borough by descent, devise, marriage, or marriage-settlement, or promotion to any office or benefice. And this shall relate only to persons who claim to vote as inhabitants, in manner as aforesaid, and shall not extend to any other description of persons who may claim to vote by any other title, or by any other superadded qualification.

By the 7 & 8 Wil. III. c. 4, no candidate, after the teste of the writ of summons, or after a place becomes vacant in Parliament time, shall, by himself, or by any other ways or means on his behalf, or at his charge, before his election, directly or indirectly give, or promise to give, to any elector any money, meat, drink, provision, present, reward, or entertainment, to or for any such elector in particular, or to any county, city, town, borough, port, or place in general, in order to his being elected, on pain of being incapacitated.

By the 2 Geo. II. c. 24, s. 1 (which is required to be read by the returning officer immediately after reading the writ, and also at Easter sessions yearly for any county or city, and at every election of the chief magistrates in any borough, town corporate, or cinque port), every person, before he is admitted to poll, shall, if required by either of the candidates, or any two electors, take the following oath, to be administered by the returning officer or his deputy:—

I, A. B., do swear [or, being one of the people called Quakers, "I, A. B., do solemnly affirm"] I have not received or had by myself, or any person whatsoever in trust for me, or for my use and benefit, directly or indirectly, any sum or sums of money, office, place, or employment, gift or reward, or any promise or security for any money, office, employment, or gift, in order to give my vote at this election; and that I have not before been polled at this election.

Sect. 7. If any person shall take any money, or other reward, or contract or agree for any money, gift, office, employment, or other reward, to give, or forbear to give, his vote, he shall forfeit £500.

Sect. 8. And if any person offending shall, within twelve months after such election, discover any other person or persons offending against this act, so that the party so discovered be thereupon convicted, such discoverer, not having been before convicted of any offence against this act, shall be indemnified and discharged from all penalties and disabilities which he shall have then incurred by any offence against this act.

Sect. 11 provides, declares, and enacts, that no person shall be made liable to any incapacity, disability, forfeiture, or penalty, by this act laid or imposed, unless prosecution be commenced within two years after such incapacity, disability, forfeiture, or penalty, shall be incurred; or, in case of a prosecution, the same be carried on without wilful delay, anything herein contained to the contrary notwithstanding.

Mr. Collyer has the following note on this statute:—"Wherever a person is bound by law to act without any view to his own private emolument, and another, by a corrupt contract, engages such person, on the condition of the payment or promise of money, or other lucrative consideration, to act in a manner which he shall prescribe, both parties are, by such contract, guilty of bribery. 2 *Doug. Law of Elections*, n. b. Bribery at elections for members of Parliament was always a crime at common law, and consequently punishable by indictment or information; but, in order to enforce the law, the severe penalties contained in this statute were introduced, the legislature not meaning to take away the common law crime, but to add a penal action, as appears by the words, 'or being otherwise lawfully convicted thereof,' contained in the seventh section. However, the court will not, in ordinary cases, interpose by information at common law, until the two years are expired. *R. v. Pitt*, 3 *Burr.* 1339; and see *R. v. Haydon*, 3 *Burr.* 1359. The same incapacities ensue, upon a conviction, on a prosecution for bribery

ELECTORS.

scot and lot, &c., who shall not have been so six months previous to the election, to forfeit £20.

Offenders discovering others, indemnified.

Prosecutions to commence within two years.

Observations as to bribery.

POLLING.

by way of information at common law, as when the proceeding is by an action under the statute. 4 *Doug. L. E.* 294. For cases on the construction of this statute, see 1 *Russ.* 159; and see, on the construction of the eighth section, *Sibley v. Cumming*, 4 *Burr.* 2465; *Curgenven v. Cumming*, 4 *Burr.* 2504; *Pugh v. Curgenven*, 3 *Wils.* 35. It has been decided, that where a voter received money after an election, for having voted for a particular candidate, but no agreement for any such payment was proved to have been made before the election, the case was not within the statute. *Lord Huntingtower v. Gardiner*, 1 *B. & C.* 297; 2 *D. & R.* 369, *S. C.*; see also *Shep.* 58."

Discoverer, though interested, a competent witness.

In an action on this statute for bribery, it is no objection to the competency of a witness for the plaintiff to prove such bribery, that a similar action was pending against the witness himself for bribery at the same election, and that he claimed to be the first discoverer of the bribery of the defendant, and meant to avail himself of it, if necessary, in case of the defendant's conviction. Where the evidence given by such a witness of the defendant's bribery was by means of the defendant's confession of it to the witness, it was holden that the truth of the fact so confessed, as well as the confession of such fact, was material for the consideration of the jury. *Heward v. Shipley*, 4 *East*, 180. See further, *post*, 29, as to expenses.

Giving ribands, &c.

By the 7 & 8 Geo. IV. c. 37, s. 2, 3, passed to prevent the expenses of elections, the practice of giving ribands, or other marks of distinction, by a candidate before his election, either to voters or inhabitants, in England, is made penal in the sum of £10 for every offence.

New oath.

By the 25 Geo. III. c. 84, s. 5, and in all cases where no oath of qualification other than the said oath against bribery, or the oaths of allegiance, supremacy, and abjuration, can now by law be required, every person claiming to give his vote shall (if required as aforesaid), before he is admitted to poll, take the oath following:—

I do swear [or, being a Quaker, "*do affirm*"] *that my name is A. B., and that I am* [specifying the addition, profession, or trade, of such person], *and that the place of my abode is at* , *in the county of* [and if it is a town, consisting of more streets than one, specifying what street]; *and that I have not before polled at this election; and that I verily believe myself to be of the full age of twenty-one years.*

See, further, as to expenses, the 49 Geo. IV. c. 118, *post*, 31.

V. Polling.

Returning officer to be sworn.

By the 2 Geo. II. c. 24, s. 3, before the returning officer shall proceed to the election, he shall, immediately after the reading of the writ, take and subscribe the following oath, to be administered by a justice of the peace or any three electors:—

I, A. B., do solemnly swear, that I have not, directly or indirectly, received any sum or sums of money, office, place, or employment, gratuity or reward, or any bond, bill, or note, or any promise or gratuity whatsoever, either by myself, or any other person to my use or benefit or advantage, for making any return at the present election of Members to serve in Parliament; and that I will return such person or persons as shall, to the best of my judgment, appear to me to have the majority of legal votes.

Which oath shall be entered amongst the records of the sessions.

A poll being demanded,

By the 25 Geo. III. c. 84, s. 1, every poll which shall be demanded, shall commence on the day upon which the same shall be demanded, or upon the next day at farthest (unless it be Sunday, and then on the day after), and shall be duly and regularly proceeded in from day to day (Sundays excepted), until the same be finished; but so as not to continue more than fifteen days at most, (Sunday excepted,) and if the same shall continue for fifteen days, then to be finally closed before the hour of three in the afternoon of that day.

not to continue more than fifteen days.

Or eight days for cities, &c.

By the 9 Geo. IV. c. 59, s. 5, the poll may not be kept open more than

eight days for cities, towns, &c., except London and Westminster, Sundays excepted, and must close before three o'clock on the eighth day.

Sect. 3 of 25 Geo. III. c. 84. Every returning officer, unless prevented by some unavoidable accident, shall cause the said poll to be kept open for seven hours at the least in each day, between eight in the morning and eight at night.

Sect. 7. Every person employed as a poll-clerk shall, before he begins to take such poll, be sworn by such returning officer, truly and indifferently to take the said poll, and to set down the name of each voter, and his addition, profession, or trade, and the place of his abode, and for whom he shall poll. See 1 Peckw. 506, 507.

And by the 34 Geo. III. c. 73, s. 1, and 42 Geo. III. c. 62, s. 1, after reciting that in many places it may be impracticable to receive the votes of all persons claiming and having a right to vote within the time limited as aforesaid, it is enacted that when a poll shall be demanded, the returning officer shall, at the request in writing of any candidate under his hand, immediately after such request, and before he shall proceed further in taking the poll, appoint two or more persons to administer all the oaths required to be taken by voters, [except that by st. 43 Geo. III. c. 74, the oath or affirmation required by the 2 Geo. II. c. 24, shall be taken by every person before he is admitted to poll in manner as prescribed by the said act, if demanded;] and to certify the names of electors who shall have taken such oaths, or subscribed and made such declaration or affirmation respectively. And every person so appointed, shall immediately, and before he shall act, take the following oath, to be administered by the returning officer, or his deputy:—

POLLING.

Poll to be kept open seven hours a-day.

Poll-clerks to be sworn.

Persons to be appointed to administer the oaths, &c.

I do swear, that I will faithfully and impartially administer the oaths, and take the declarations and affirmations, now required by law to be taken or made by voters at elections for members to serve in Parliament, to and from such persons as shall lawfully apply to me in that behalf, in order to qualify themselves to vote at this election; and that I will, on being thereunto requested, fairly and truly give to every such person, or any of them, who shall take such oaths, or make such declarations or affirmations respectively, or any of them, before me, a certificate thereof; and that I will not give such certificate to any person before he shall have taken such oath or oaths, or make such declaration or declarations, affirmation or affirmations respectively, as shall be mentioned in such certificate, before me and in my presence.

Oaths to be taken by such persons.

And by the 34 Geo. III. c. 73, s. 4, if at any time during the election it shall be found that the number of persons so appointed are insufficient for the purpose, and that the poll is delayed thereby, the returning officer, at the request in writing of any candidate then present, shall appoint more, in like manner as aforesaid.

If a sufficient number have not been appointed.

Sect. 2. Any person claiming to vote may apply to one of the persons so appointed to take the said oaths, or to make and subscribe such declaration or affirmation as aforesaid; and such person shall administer the same accordingly, and shall immediately sign and deliver a certificate thereof, which shall contain the name, addition, and place of abode of the person to whom the same shall be so delivered, and be in the following form:—

Electors to take the oaths, &c. before such persons, who shall give certificates thereof.

A. B. [naming the person taking the oath] of [naming the place of such person's abode, and his addition or occupation,] has taken the oath [or oaths] of [naming the said oath or oaths, so administered] before me, this day of .

And in case of Quakers subscribing the said declaration of fidelity, or taking their affirmation of the effect of the said oath of abjuration, it shall be in the form following: (that is to say)

A. B. [naming the person subscribing or affirming] of [naming the place of such person's abode, and his addition or occupation,] has made and subscribed the declaration of fidelity, and affirmed the effect of the oath of abjuration [or if only one of those acts has been done, then naming such one act only,] before me, this day of .

And such person, on producing such certificate to the returning officer or person taking the poll, shall be permitted to poll in like manner as if such oaths, &c. had been taken before the returning officer.

Production of certificate to entitle to vote.

POLLING.

No person to vote without producing such certificate.

Proper places to be appointed for taking such oaths, &c.

Such places to be provided previous to the election, if required.

Expenses to be defrayed by the candidates.

What votes shall be deemed legal.

Disputed votes.

7 & 8 G. 4, c. 37.

Return to be made.

Sect. 3. If any person shall offer to vote without producing such certificate, and being lawfully required to take the said oaths, and make such declaration as aforesaid, the same shall not be administered to him by the returning officer or person taking the poll, but he shall immediately withdraw, and take the same before one of the persons appointed as aforesaid.

Sect. 5. The returning officer shall provide a proper place for every such person so appointed, to which place the respective electors may have free access without interrupting the poll, and so as the persons so appointed may act separately without interfering with each other; and every such place shall be open and attended by the person appointed to act there, during all the time of the poll; and shall be kept open eight hours at least in every day, between eight in the morning and eight in the evening, until the final close of the poll; and such oaths, &c., shall be administered to as many of the electors, being ready, as conveniently can, not exceeding twelve at one time. And the returning officer shall deliver to each person so appointed a sufficient number of printed forms of the declaration to be made by Quakers, with blanks therein for the names of the persons offering to make and subscribe the same, to be inserted therein; and also a sufficient number of printed certificates in the like form, to be filled up and delivered to each elector so taking the said oaths or affirmation.

Sect. 6. In case any candidate shall, three days at the least before such election, give or cause to be given notice in writing to the returning officer to provide proper places for administering the said oaths, declarations, and affirmations, he shall prepare and provide such proper places, so as to be ready before and against the day of election; and in case there shall not be a sufficient number of fit and convenient places for that purpose at the town or place where such election shall be had, which the returning officer can conveniently and at a reasonable expense procure, then he shall cause such booths or temporary erections to be made in convenient places in that behalf as shall be necessary for the purpose; the expense of which, and of the said printed forms, and also the allowance to be made to the several persons appointed to administer the oaths, &c., as aforesaid (not exceeding one guinea a-day each for every day's attendance) shall be paid by the candidates in equal proportions, to the returning officer, which, if not paid, may be recovered in the courts at Westminster. And see the 7 Geo. IV. c. 55; 9 Geo. IV. c. 59; *ante*, 19.

And by the 2 Geo. II. c. 24, s. 4, such votes shall be deemed to be legal, which have been so declared by the last determination in the House of Commons; which last determination, concerning any county, city, borough, cinque port, or place, shall be final, to all intents and purposes.

[N. B. Repealed as to any determination of the House of Commons subsequent to the 28 Geo. III. c. 52. See s. 31 of that act.]

By the 9 Geo. IV. c. 59, when the poll is closed, and before the proclamation of return is made, if a candidate, agent, or two electors, shall certify to the returning officer that disputed votes have been referred for decision, the proclamation shall be deferred till three of the clock of the third day, unless the votes have been previously decided. But the provisions of this act do not extend to Scotland or Ireland, or to London or Westminster.

By the 7 and 8 Geo. IV. c. 37, s. 5, voters are exempted during the election from serving as constables.

VI. Return, and Expenses of Election.

By the 7 Hen. IV. c. 15, after the election, the names of the persons chosen shall be written in an indenture under the seals of the electors, and tacked to the writ.

By the 25 Geo. III. c. 84, s. 1, the returning officer shall, immediately after the final close of the poll, or on the day next after, truly, fairly, and

publicly declare the name of the person who hath the majority of votes, and shall forthwith make a return of such person; unless the returning officer, upon a scrutiny being demanded by any candidate or any two electors, shall deem it necessary to grant the same; in which case he shall proceed thereon, but so as that in all cases of a general election every returning officer, having the return of the writ, shall cause a return of a member to be filed in the Crown Office, on or before the day on which such writ is returnable; and every other returning officer, acting under a precept or mandate, shall make a return of a member in obedience to the same, six days at least before the day of the return of the writ, by virtue of which such election has been made: and so that, in case of an election upon a writ issued during a session or prorogation of Parliament, and a scrutiny being granted as aforesaid, then a return of a member shall be made within thirty days after the close of the poll (or sooner, if the same can conveniently be done.)

RETURN AND
EXPENSES.

Scrutiny being
demanded.

By the 7 & 8 Wil. III. c. 7, s. 1, 2, if any officer shall return any member contrary to the last determination in the House of Commons, the same shall be adjudged a false return; and the party duly elected may recover double damages with full costs.

Return not to be
contrary to the
last determina-
tion.

Sect. 3. And the like remedy shall be against an officer making a double return. See 1 *Pecko*. 16.

Double return.

By the 25 Geo. III. c. 84, s. 2, whenever a scrutiny shall be granted as aforesaid, and there shall be more parties than one, the returning officer shall decide alternately on the votes given for the different candidates who shall be parties to such scrutiny, or against whom the same shall be carried on.

How to proceed
on a scrutiny.

Sect. 6. And such returning officer may, if he see cause during such scrutiny, administer an oath to any person consenting to take the same, touching the right of any person having voted, or touching any other matter or thing material or necessary towards carrying on such scrutiny.

Witnesses may
be sworn.

Sect. 9 But nothing herein shall extend to alter or affect the election of any member for any place where particular regulations are specially enacted by statute.

Sect. 10. If upon any writ issued no return shall be made on or before the day on which such writ is returnable, or if a writ shall have been issued during any session or prorogation of Parliament, and no return shall be made within fifty-two days after the day on which such writ bears date, or if the return made in either case shall not be a return of a member according to the requisition thereof, but contain special matter only concerning such election; any person having or claiming a right to vote, or claiming a right to be returned, who shall think himself aggrieved, may petition the House of Commons concerning the same; and upon such petition being presented, a day and hour shall be appointed for taking the same into consideration, and notice thereof in writing shall be forthwith given by the speaker to the petitioners, and to the officer by whom such return should have been made, accompanied with an order to attend the house at the time appointed, by themselves, or their counsel, or agents; and a select committee shall be appointed according as is directed by the 10 & 11 Geo. III., who shall proceed therein as by the said acts are directed; and all rules and regulations in either of the said acts contained shall extend to this act.

Where no mem-
ber is returned.

Sect. 8. Every person who, in taking any oath herein-before appointed, shall thereby commit wilful perjury, or unlawfully and corruptly procure or suborn any other person to take any such oath, whereby he shall commit such wilful perjury, and shall be thereof convicted, shall incur such penalties as are inflicted by the 5 Eliz. c. 9, and 26 Geo. II. c. 25, s. 8.

Persons commit-
ting perjury.

And by the 7 & 8 Wil. III. c. 25, s. 6, every such sheriff or returning officer shall deliver copies of the poll to any person desiring the same, paying a reasonable charge for writing thereof.

Copies of the
Poll.

Finally, by the 10 Anne, c. 23, s. 5, he shall, within twenty days after the election, deliver over upon oath (to be administered by the two next justices,) (1 Q.) the poll-books to the clerk of the peace, without alteration, to be kept amongst the records of the sessions.

RETURN AND
EXPENSES.Petition to the
House of Com-
mons.

10 Anne, c. 23.

And on petition to the House of Commons, complaining of an undue election, forty-nine members of the House of Commons shall be chosen by ballot, out of whom each party shall alternately strike out one, till they be reduced to the number thirteen; who, together with two more, of whom each party shall nominate one, shall be a select committee for determining such controverted elections. The 10 Geo. III. c. 16; 11 Geo. III. c. 42; both made perpetual by the 14 Geo. III. c. 15; and since amended by the 25 Geo. III. c. 84; 28 Geo. III. c. 52; 32 Geo. III. c. 1; 36 Geo. III. c. 59; 42 Geo. III. c. 84; 47 Geo. III. c. 1; 53 Geo. III. c. 71; 9 Geo. IV. c. 22; and the principal act is now the 9 Geo. IV. c. 22. See 18 Geo. II. c. 18, as to certain expenses, *ante*, s. 1.

At a general election, A. was returned, after a contest, to serve in Parliament, but died before the next meeting of Parliament; held, that immediately on his death the representation of that place "became vacant," within the meaning of the Treating Act, 7 & 8 Wil. III. c. 4; and that if B., being neither a candidate nor the agent of a candidate, canvassed for C., and ordered beer for the voters after such vacancy, this comes within the act, even though it were not proved that C. either knew of the canvass or of the treating; and it was therefore held, that an innkeeper could not recover against B. for beer supplied to those voters by his order. The Treating Act extends to an unsuccessful candidate who did not come to the poll. *Ward v. Nanney*, 3 C. & P. 399.

A mercer furnished ribands to a person who was a candidate for the representation of a city in Parliament; the ribands were partly used as ribands for voters; the mercer was himself a voter, and received orders for some of the ribands from the candidate himself, in his committee-room, but was not told for what purpose they were wanted. Held, that he was entitled to recover the price of the riband from the candidate, notwithstanding the provisions of the 7 and 8 Wil. III. c. 4. *Richardson v. Webster, Bart.*, 3 C. & P. 128.

Where hustings, erected at the expense of the candidates at a contested election, were damaged by a riotous assembly, and were afterwards repaired at their expense, it was held, that no action could be maintained at the suit of the returning officer against the hundred. *Allen v. Ayre*, 3 D. & R. 96.

VII. Privilege of Parliament.

Privilege of him-
self and servants.

By the common law, a member of Parliament shall have the privilege of Parliament, not only for himself and his servants, to be freed from arrest, subpoena, citation, and the like, but also for his horses and goods to be free from distresses: but for treason, felony, and breach of the peace, there can be no privilege. 4 *Inst.* 24, 25; *Fidd. ed.* 192.

Not privileged
against a process
of the courts at
Westminster.

Rex v. Earl Ferrers, 1 *Burr.* 631. A writ of *habeas corpus* having been granted and served upon the said earl, returnable immediately, to bring up the body of his countess, who was sister to Sir William Meredith, (that she might have an opportunity to lay her case before the court, and swear the peace, if she should think proper, thereby to receive the protection of the court against the said earl,) and the earl having neglected to return the said writ, the counsel for Sir William Meredith, on behalf of his sister, intended to have moved for an attachment against the earl for this his disobedience. But some doubts and difficulties having been started by members of both houses concerning the privilege of peerage, and whether the Court of King's Bench could issue an attachment against a peer during the sitting of Parliament, and execute it upon him, only for a contempt to their court, Sir William judged it prudent to petition the House of Lords, for their leave to proceed against the earl, and accordingly (by the hands of the Earl of Westmoreland) delivered a petition, stating the facts. Lord Delaware opposed it; and said it was too summary and hasty a method of determining upon their privileges; and proposed re-

ferring the matter to a committee, and summoning Lord Ferrers to answer it in his place: and to obviate the objections which might be made to this method, on account of the delay, he offered some schemes for the immediate safety of the countess. But Lord Mansfield answered him, and spoke in support of the jurisdiction of his court, and the unreasonableness, injustice, and inconvenience of allowing such a privilege in criminal cases and breaches of the peace. The Duke of Argyle spoke to the like effect, and expressed a surprise that there should be any doubt about it; the reason of the thing being so clear and plain. Lastly, the Earl of Hardwicke spoke strongly and particularly in support of the same doctrine, and adduced many instances and precedents in proof of his position; and concluded with proposing that, to put an end to all doubts about it for the future, the lords should come to a resolution; and accordingly they did come to the following resolution or declaration, and ordered it to be entered on their journal, viz. "7th February, 1757, it is ordered and declared that no peer or lord of Parliament hath privilege against being compelled by process of the courts of Westminster Hall to pay obedience to a writ of *habeas corpus* directed to him."

The Habeas Corpus Act is a remedial law; and the judges of every court are bound to enforce its provisions according to their spirit, in such a manner as most effectually to relieve the subject from illegal imprisonment. *Per Lord Alvanley, C. J. 2 Bos. & Pul. 535.*

But members of either house are privileged from an attachment for non-payment of money. 7 T. R. 171, 448.

By the 12 & 13 Wil. III. c. 3, and 11 Geo. II. c. 24, any person may bring an action against a peer or member of Parliament, or any of their menial or other servants, immediately after the dissolution or prorogation, until a new Parliament meet, or the same be re-assembled; and from any adjournment of both houses for above fourteen days, until both houses shall meet or re-assemble; and the courts, during such time, may proceed to give judgment and award execution.—But this shall not extend to subject the person to be arrested during the time of privilege; but the plaintiff may prosecute at law by summons and distress infinite, or by original bill and summons, attachment, and distress infinite, until the defendant shall enter a common appearance, or file common bail. And in equity, the plaintiff may proceed by letter or subpoena; and after service thereof may, for want of appearance or answer, or non-performance of an order or decree, or for breach thereof, sequester the real and personal estate of the party, but not arrest his body.

By the 6 Geo. IV. c. 16, s. 9, a member of Parliament may be a bankrupt; but by the 52 Geo. III. c. 144, he vacates his seat, unless the commission is superseded within twelve months from its being issued, or the creditors are paid their debts in full within the same period.

By the 6 Geo. IV. c. 16, s. 9, traders having privilege of Parliament committing acts of bankruptcy, may be proceeded against as bankrupts.

By sect. 10, any such traders not paying or compounding to the satisfaction of the creditor, and also entering an appearance to the action within one month, commit an act of bankruptcy. See *Hunter v. Campbell*, 3 B. & A. 273; *Jameson v. Campbell*, 5 B. & A. 250; *Exp. Harcourt*, 2 Rose, 204.

By sect. 11, any such trader disobeying the order of any court of equity, or in bankruptcy or lunacy for payment of money, after personal service and peremptory day fixed for payment of the money, an act of bankruptcy.

And by the 10 Geo. III. c. 50, any person may commence and prosecute any action in any court of record or court of equity, or of admiralty, (or, in causes matrimonial and testamentary, in any court having cognisance of such causes,) against any peer or member of the House of Commons, or any of their menial or other servants, or any other person entitled to privilege of Parliament; and no proceedings thereupon shall be delayed under colour of such privilege. But this shall not subject the person of any member of the House of Commons to be arrested or imprisoned on any such suit or proceedings. And to remedy the dilatoriness by process of *distingas*, the court out of which the writ proceeds may order the issues levied from time to time to be sold, and the money arising thereby to be applied to pay such costs to the plaintiff as

Privileged from attachment for non-payment of money. May be sued, but not arrested.

Where the bankrupt is a member of Parliament, or has the protection of Parliament. 6 Geo. 4, c. 16.

Prosecuting actions against peers or members of Parliament.

PRIVILEGE.

the court shall think just, and the surplus to be detained till the defendant **shall** have appeared, or other purpose of the writ be answered. And obedience may be enforced to any rule of the Court of King's Bench, Common Pleas, or Exchequer, against any person entitled to privilege, by distress infinite, **if the** person entitled to the benefit of such rule shall choose to proceed in that **way**.

VIII. *How long the Parliament shall continue.*

To continue seven years.

By the 1 Geo. I. s. 2, c. 38, the Parliament shall have continuance for **seven** years, to be accounted from the day on which, by the writ of summons, **they** shall be appointed to meet; unless sooner dissolved by the king.

Not dissolved by the death of the king.

And by the 7 & 8 Wil. III. c. 15, and 6 Anne, c. 7, they shall not be **dis-**solved by the king's death, but shall continue and immediately meet, sit, **and** act for six months, unless sooner dissolved by the successor. And if **there be** then no Parliament in being, the last preceding Parliament shall meet, sit, **and** act as aforesaid.

IX. *When an Act of Parliament shall take Date.*

Clerk of Parliament to indorse on every act the time it receives the royal assent, which shall be its commencement, where no other is provided.

By the 33 Geo. III. c. 13, after reciting, that in every act of Parliament in which the commencement thereof is not directed to be from a specific time, it doth commence from the first day of the session of Parliament in which such act is passed, which is liable to produce great injustice, it is enacted, that the clerk of the Parliaments shall indorse (in English) on every act of Parliament which shall pass after the 8th of April, 1793, immediately after the title of such act, the day, month, and year, when the same passed and received the royal assent; which indorsement shall be taken to be the date of its commencement, where no other commencement shall be therein provided.

Before this enactment, every statute (unless otherwise expressly provided) related to the first day of the session, when it was passed, contrary to the principle of legislation, that all laws should be made to commence *in futuro*, and be notified before their commencement. 1 *Bla. Com.* 46; 2 *Bingh.* 257. The consequence was, that frequently great injustice was occasioned; see instances, 1 *Lev.* 91; 4 *T. R.* 660; and even ignorance of a statute rendering criminal an act not before so, was held to afford no defence to the indictment, although it was ground for a pardon. See *Bailey's case*, 1 *Russ. & R. Cr. C.* 1. But the above statute remedies this evil, and in general, in modern acts, it is provided that they shall commence to operate on some future named day. 1 *Chit. Col. St.* 1031, n.

Where bills for continuing expiring acts shall not pass before the acts expire, such acts shall be continued from their expiration, except as to penalties.

By the 48 Geo. III. c. 106, where any bill shall be introduced into any session of Parliament, for the continuance of any act which would expire in such session, and such act shall have expired before the bill for continuing the same shall have received the royal assent, such continuing act shall be deemed to have effect from the date of the expiration of the act intended to be continued, except it shall be otherwise provided in such continuing act: but nothing herein contained shall extend to affect any person with any punishment, penalty, or forfeiture, by reason of any thing done, or omitted to be done, contrary to the provisions of the act continued, between the expiration of the same, and the date at which the act continuing the same shall receive the royal assent.

X. Improperly Procuring an Election.

ELECTION,
IMPROPERLY
PROCURING.

By the 49 Geo. III. c. 118, after reciting, that the giving or promising to give money, &c. in order to procure the return of any member to serve in Parliament, if not given to or for the use of some person having a right or claiming to have a right to act as returning officer, or to vote at such election, is not bribery within the meaning of the 2 Geo. II. c. 24, it is enacted, "that if any person shall, either by himself, or by any other person for or on his behalf, give or cause to be given, directly or indirectly, or promise or agree to give any sum of money, gift, or reward, to any person, upon any engagement, contract, or agreement, that such person to whom, to whose use, or on whose behalf such gift or promise shall be made, shall, by himself, or by any other person whatsoever at his solicitation or command, procure or endeavour to procure the return of any person to serve in Parliament, every person so having given or promised to give, if not returned himself in Parliament for such county, &c., shall, for every such gift or promise, forfeit 1000*l.*, to be recovered as hereinafter provided, with respect to the sum of 500*l.*; and every such person so returned, and so having given or promised, or knowing of and consenting to such gifts or promises, upon any such engagement, &c., shall be thereby disabled to serve in that Parliament for such county, &c.; and such person shall be deemed to be no member of Parliament, as if never returned or elected a member; and any person who shall receive or accept of, by himself, or by any other in trust for, or to the use or on the behalf of him, any such sum of money, gift, or reward, or any such promise upon any such engagement, &c., shall forfeit to his majesty the value and amount of such sum of money, &c., over the sum of 500*l.*, which said 500*l.* he shall forfeit to any person who shall sue for the same, to be recovered, with costs of suit, by action of debt, &c. in any of his majesty's courts at Westminster, if the offence be in England or Wales, and at Dublin, if committed in Ireland."

Sect. 2. Provides that the act shall not extend to any money paid or agreed to be paid to or by any person for any legal expence *bonâ fide* incurred at or concerning any election.

By sect. 3. If any person shall by himself, or by any other person on his behalf, give or procure to be given, any office, place, or employment to any person upon any express contract or agreement that such person, to whom or to whose use or on whose behalf such gift or promise shall be made, shall by himself, or by any other person at his solicitation or command, procure or endeavour to procure the return of any person to serve in Parliament for any county, &c. (as in s. 1.) such person so returned, and so having given or procured, or so having promised to give or procure, or knowing of and consenting to such gift or promise upon any such express contract or agreement, shall be disabled and incapacitated, &c. (as in s. 1); and any person who shall receive or accept of, by himself, or by any other person in trust for or to the use or on the behalf of such persons, any such office, &c., upon such express contract or agreement, shall forfeit such office, &c., and be incapacitated for holding the same, and shall forfeit 500*l.*, which said 500*l.* shall be recovered as is herein-before enacted; and any person holding any office under his majesty, who shall give such office, &c., upon any such express contract, &c., that the person to whom, &c., such office, &c., shall have been given, shall so procure, or endeavour to procure, the return of any person to serve in Parliament, shall forfeit 1,000*l.*, to be recovered as is herein-before provided.

By sect. 4, actions upon this statute must be commenced within two years next after the offence committed, excepting where the party absconds.

As to bribery at elections, see *ante*, 24, 5.

Penalty on persons giving or receiving money to procure the election of a member of Parliament, though such money, &c. be not given to voters.

Giving any office, &c. for election purposes.

Limitation of actions.

Pauper.

[2 Geo. III., c. 28, s. 8.]

Defending in
formâ pauperis.

A DEFENDANT in a criminal proceeding is entitled to defend in *formâ pauperis*, if the court will allow it. *Rep. T. Hard* 211, *Com. Dig., Formâ Pauperis*, *Vin. Ab Paupers*; 1 *Chit. C. L.* 412.

By the 2 Geo. III. c. 28, s. 8, a person arrested on a *capias* or information, relating to the customs, upon making affidavit that he is not worth 5*l.*, exclusive of his wearing apparel, may, at the discretion of such judge, be admitted to defend as a pauper, with the same privileges as those who may sue in this manner for the recovery of civil rights.

The mode for the party defending, to obtain this benefit, is by making an affidavit before the judge or a commissioner of the court, under the last-mentioned act, that he is not worth 5*l.*, and then to petition to have a particular counsel and clerk assigned him. *Vin. Ab. Paupers, B.*; 1 *Chit. C. L.* 413.

An order cannot be made at the judge's chambers in vacation, for leave to prosecute in *formâ pauperis*: the order must be obtained in court. *R. v. Cresswell*, 1 *Chit. C. L.* 413.

When this admission is granted, it prevents the officers of the court from taking fees, as well as those who are assigned to conduct the cause on the motion of the defendant. *Hullock*, 228, n. 1.

Partition.

& 9 W. 3, c. 31.

BY the 8 & 9 Wil. III. c. 31, intituled, "An Act for the easier obtaining Partitions of Lands in Coparcenary, Joint-tenancy, and Tenancy in common," it is enacted, that if the high sheriff cannot conveniently be present at the execution of any judgment in partition, in such case the under-sheriff, in presence of two justices, may proceed to execution of the writ of partition.

Partners.

PROPERTY of, how described, *ante*, *Indictment*, Vol. III.

A partnership is determined by attainder, *ante*, *Attainder*, Vol. I.

Partridge. See *Game*.

Patent. As to proof of Letters Patent, *ante*, *Evidence*, Vol. II.

Pawning.

[1 Jac. I. c. 21; 30 Geo. II. c. 24; 25 Geo. III. c. 48; 39 & 40 Geo. III. c. 99; 55 Geo. III. c. 184; 5 Geo. IV. c. 107; 9 Geo. IV. c. 49.]

52 G. 3, c. 43.
License.

BY the 25 Geo. III. c. 48, s. 1, 3, 4, 12, every person exercising the trade of a pawnbroker shall take out a license, and shall renew the same annually, ten days at least before the end of the year, on pain of forfeiting 50*l.*; to be recovered in the courts at Westminster.

9 G. 4, c. 49.

By the 9 Geo. IV. c. 49, s. 12, pawnbrokers' licenses are to expire annually, on the 31st of July.

By the 55 Geo. III. c. 184, *sch. part 1*, upon every license to be taken out yearly for using or exercising the trade or business of a pawnbroker, within the cities of London and Westminster, or within the limits of the two-penny post, there shall be paid a duty of 15*l*.

55 G. 3, c. 184.

And for using or exercising the trade or business of a pawnbroker elsewhere, 7*l*. 10*s*.

Sect. 3. The said duties to be under the management of the commissioners of the stamp duties.

By the 25 Geo. III. c. 48, s. 7 & 8, no person shall keep more than one house or shop by virtue of one license; but persons in partnership need only take out one license for one house.

25 G. 3, c. 48.

Sect. 5. All persons who shall receive, by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon, shall be deemed pawnbrokers.

Who shall be deemed pawnbrokers.

Sect. 6. But the same shall not extend to any person who shall lend money at 5*l*. per cent. interest, without taking any further or greater profit for the loan thereof. See also 39 & 40 Geo. III. c. 99, s. 30, *post*, 38.

Not persons lending at 5 per cent.

The 36 Geo. III. c. 87, being in force only for three years, and till the end of the then next session of Parliament, the 39 & 40 Geo. III. c. 99, was substituted in lieu thereof; and, by the latter act, s. 2, it is enacted, "That, upon and from the commencement of this act, it shall be lawful for all persons using and exercising the trade or business of a pawnbroker, to demand, receive, and take of and from all and every person and persons applying or offering to redeem any goods or chattels pawned or pledged with such pawnbroker, a profit, after the following rates, over and above the principal sum and sums which shall have been lent and advanced upon the respective pledge or pledges, before any such pawnbroker shall be obliged to re-deliver the same; (*videlicet*),

39 & 40 G. 3, c. 99.
Rate of profit to be taken.

Pawnbrokers allowed to take certain rates.

For every pledge upon which there shall have been lent any sum not exceeding two shillings and sixpence, the sum of one halfpenny for any time during which the said pledge shall remain in pawn not exceeding one calendar month, and the same for every calendar month afterwards, including the current month in which such pledge shall be redeemed, although such month shall not be expired:

Rates.

For every pledge upon which there shall have been lent the sum of five shillings, one penny:

For every pledge upon which there shall have been lent seven shillings and sixpence, one penny halfpenny:

For every pledge upon which there shall have been lent ten shillings, twopence:

For every pledge upon which there shall have been lent twelve shillings and sixpence, twopence halfpenny:

For every pledge upon which there shall have been lent fifteen shillings, threepence:

For every pledge upon which there shall have been lent seventeen shillings and sixpence, threepence halfpenny:

For every pledge upon which there shall have been lent one pound, fourpence; and so on progressively and in proportion for any sum not exceeding forty shillings:

For every pledge upon which there shall have been lent any sum of money exceeding forty shillings, and not exceeding forty-two shillings, eightpence:

And for every pledge upon which there shall have been lent any sum exceeding forty-two shillings and not exceeding ten pounds, at and after the rate of threepence and no more,* for the loan of every twenty shillings for all

* The taking a greater rate subjects the pawnbroker to the penalties imposed by s. 26, *post*, 47; and the allowance of the specified rates is not merely a dispensation from the law of usury. R.

v. Beard, 12 East, 673; *post*, 47. In *Cowie v. Harris*, it was held that, if a pawnbroker, upon one contract or bargain of loan, advance more than 10*l*., viz. 100*l*., and pretend to divide the

39 & 40 G. 3, c. 99.

When the intermediate sum lent exceeds 2s. 6d., but does not exceed 40s., the rate of 4d. for the loan of 20s. by the month to be paid.

Pawnbrokers to give farthings in change.

Limiting the profits for part of a month.

Pawns to be entered in books.

such money so lent, by the calendar month, including the current month ; and so in proportion for any fractional sum :

Which said several sums shall be taken in lieu of and as a full satisfaction for all interest due, and charges for warehouse-room."

Sect. 3. "And that, in all cases where any intermediate sum, lent upon any pawn or pledge, shall exceed the sum of two shillings and sixpence, and not exceed the sum of forty shillings, the person lending the same shall and may take, by way of profit as aforesaid, at and after the rate of fourpence and no more, for the loan of twenty shillings by the calendar month, including the current month as aforesaid."

Sect. 4 provides, "that in all cases where the sum to be demanded, received, and taken, by any pawnbroker or pawnbrokers, his, her, or their servant or agent, of and from any person or persons applying or offering to redeem any goods or chattels, pawned or pledged with such pawnbroker or pawnbrokers, either as profit upon any sum lent, or as part principal and part profit, shall amount to a total sum, of which the piece of money of the lowest denomination shall be one farthing ; and where the person or persons so applying, or offering to redeem such goods or chattels, shall have paid down the sum due for such principal and profit, or for such profit only (as the case may be), except the last remaining farthing, and shall not be able to produce and pay to such pawnbroker or pawnbrokers, his, her, or their servant or agent, a current farthing, and which shall be to the satisfaction and liking of such person or persons to receive the same, but shall, in lieu thereof, tender to such person or persons to receive the same one halfpenny, in order to discharge the said remaining farthing so due as aforesaid, the said pawnbroker or pawnbrokers, his, her, or their servant or agent, to whom such tender of a halfpenny for such purpose as aforesaid shall be made, shall, in exchange thereof, deliver unto such person or persons so redeeming goods as aforesaid, one good and lawful farthing, of the current coin of this kingdom, or in default thereof, shall wholly abate the said remaining farthing from the total sum to be received by him or them, of such person or persons so redeeming goods or chattels as aforesaid."

Sect. 5 provides, "that in all cases where the party or parties entitled to, and applying for the redemption of goods, pawned within the space of seven days after the expiration of the first calendar month, after the same shall have been pledged, he, she, or they shall and may be at liberty to redeem the same, without paying any thing by way of profit to the pawnbroker for the said seven days, or such part thereof as shall then have elapsed ; and that, in all cases where the party or parties so entitled, and applying as aforesaid, after the expiration of the said first seven days, and before the expiration of the first fourteen days of the second calendar month, he, she, or they shall and may be at liberty to redeem such goods, upon paying the profit payable for one calendar month, and the half of another calendar month, to the pawnbroker ; but that, in all cases where the party or parties so entitled and applying as aforesaid, after the expiration of the said first fourteen days, and before the expiration of the said second calendar month, it shall be lawful for the pawnbroker to demand and take the profit of the whole second month ; and that the like regulation and restriction shall take place, and be in force, in every subsequent calendar month, wherein application shall be made for redeeming goods pawned."

Sect. 6. "And that all and every person and persons who, from and after the commencement of this act, shall take, by way of pawn or pledge, of or from any person or persons whomsoever, any goods or chattels, of what kind soever the same shall be, and whereon shall be lent any sum of money exceeding five shillings, shall forthwith, and before he, she, or they, shall or may advance or lend any money upon such pawn or pledge, enter, or cause to be en-

same, as if there were ten different loans, and for that purpose gives several tickets, dated on different days,

the transaction is a mere contrivance to conceal usury, and is illegal and void. 1 *Moody & M., C. N. P.* 141.

tered, in a fair and regular manner, in a book or books, to be kept by him, her, or them, for that purpose, a description of the goods or chattels which lie, she, or they, shall receive in pawn, pledge, or exchange, and also the sum of money to be advanced or lent thereon, with the day of the month and year on which, and the name of the person or persons by whom such goods or chattels are so pawned, pledged, or exchanged, and the name of the street and number of the house, if the same shall be said to be numbered, where such person shall abide, and whether such person or persons is or are a lodger in or the keeper of such house, by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of abode of the owner or owners of such goods and chattels, according to the information of the person pawning, pledging, or exchanging, the same; into all which circumstances the pawnbroker is hereby required to inquire of the party pawning, before any money shall be lent or advanced. And, in all cases where the money lent on any such goods or chattels shall not exceed the sum of five shillings, such entry shall be made in such book or books by all and every such person and persons so taking the same by way of pawn, pledge, or exchange, as aforesaid, within four hours next after the said goods and chattels shall have been so pawned, pledged, or exchanged, as aforesaid; and every pledge upon which shall be lent any sum of money above ten shillings shall be entered in the manner aforesaid in a book or books, to be kept for that purpose, separate and apart from all other pledges whatever; and every such entry of such pledge whereon shall be lent any sum of money exceeding ten shillings, shall be numbered in such book or books progressively as they are received in pawn, in the manner following: viz. the first pledge that is received in pawn in the month of September next shall be numbered No. 1, the second No. 2, and so on progressively until the end of the month; and the first pledge that is received in the next month shall be numbered No. 1, and the second No. 2, and so on progressively and in like manner until the end of the month; and the like regulation with respect to the numbers of all pledges above ten shillings shall be observed in every succeeding month throughout the year; and upon every note or memorandum respecting any such pledge, whereon shall be lent any sum exceeding ten shillings, as aforesaid, shall be fairly and legibly written or printed the number of the entry of such pledge, so entered in such book or books, as aforesaid; and every such person shall, at the time of the taking of every pawn, pledge, or exchange, whatsoever, give to the person or persons so pawning, pledging, or exchanging, the same, a note or memorandum, fairly and legibly written or printed, or in part written and in part printed, containing therein, in like manner, a description of the goods and chattels which he, she, or they, have received in pawn, pledge, or exchange, and also the sum of money advanced thereon, with the day of the month and year on which, and the name and place of abode, and number of the house, if said to be numbered, of the person or persons by whom such goods or chattels are so pawned, pledged, or exchanged, and whether such person is a lodger or housekeeper, as aforesaid, by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of abode of the owner or owners thereof, according to the information aforesaid; and upon which said note or memorandum, or on the back whereof, shall be moreover fairly written or printed the name and place of abode of the pawnbroker giving the same; which said note or memorandum the party and parties pawning, pledging, or exchanging, the said goods or chattels shall, and he, she, or they, is and are hereby required to accept and take in all cases; and the pawnbroker shall not receive and retain such pledge, unless the party pledging, or offering to pledge, the same shall accept and take such note or memorandum; and every such note, where the sum lent shall be less than five shillings, shall be delivered gratis; and, where the sum lent shall be five shillings or upwards, and less than ten shillings, such pawnbroker shall and may take one halfpenny for the same; and, where the sum lent shall be ten shillings or upwards, and less than twenty shillings, such pawnbroker shall and may take one penny for the same; and, where the sum lent shall be twenty shillings or upwards, and less than five pounds, the sum of twopence, for the same; and, where the

Pawnbrokers to give a note describing things pawned.

30 & 40 G. 3, c. 90.

The amount of profits shall be indorsed on duplicates of pledges redeemed.

Penalty against unlawfully pawning goods, the property of others,*

from 5*l.* to 20*s.*, and the value of the goods; or imprisonment not exceeding three months, and whipping.

Penalty on forging, counterfeiting, or altering notes.

sum lent shall be five pounds or upwards, the sum of fourpence, and no more; and which note shall be produced to the pawnbroker before he or she shall be obliged to re-deliver the respective goods or chattels, except as hereinafter is excepted."

Sect. 7. "And that, in all cases where any goods or chattels pawned or pledged shall be redeemed, the pawnbroker, of whom the same shall be redeemed, shall, at the time of such redemption, fairly and legibly write or indorse, or cause to be written or indorsed, upon every duplicate respecting such pawn or pledge, the amount of the profit taken by him, or on his account, on the money lent upon such goods or chattels so redeemed, and shall keep such duplicate in his custody for the space of one year then next following."

Sect. 8. "And that, from and after the commencement of this act, if any person or persons shall knowingly and designedly pawn, pledge, or exchange, or unlawfully dispose of the goods or chattels of any other person or persons, not being employed or authorized by the owner or owners thereof so to do, it shall be lawful for any justice to grant his warrant to apprehend any person so offending; and, if he, she, or they, shall be thereof convicted, by the oath of any credible witness or witnesses, or by the confession of the person or persons charged with such offence, before any justice or justices of the peace for the county, riding, division, city, liberty, town, or place, where the offence shall be committed (which oath every such justice or justices, as aforesaid, is and are hereby empowered and required to administer), every such offender shall, for every such offence, forfeit any sum not exceeding five pounds, nor less than twenty shillings, and also the full value of the goods or chattels so pawned, pledged, or exchanged, or disposed of, such value to be ascertained by such justice or justices; and, in case the said forfeiture shall not be forthwith paid, the justice or justices of the peace, as aforesaid, before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction, or some other public prison of the county, riding, division, city, liberty, town, or place, wherein the offender or offenders shall reside, or be convicted, there to remain and be kept to hard labour for a space not exceeding three calendar months, unless the said forfeitures shall be sooner paid; and if, within three days before the expiration of the said term of commitment, the said forfeitures shall not be paid, the said justice or justices, at his or their discretion, may order the person or persons so convicted to be publicly whipped in the house of correction or prison to which the offender or offenders shall have been committed, or in some other public place of the county, riding, division, city, liberty, town, or place, where the offence shall have been committed, as to such justice or justices shall seem proper; and the said respective forfeitures, when recovered, shall be applied towards making satisfaction thereout to the party or parties injured, and defraying the costs of the prosecution, as shall be adjudged reasonable by the justice or justices before whom such conviction shall be had; but, if the party or parties injured shall decline to accept of such satisfaction and costs, or if there shall be any overplus of the said respective forfeitures, after making such satisfaction and paying such costs, as aforesaid, then such respective forfeitures, or the overplus thereof (as the case shall happen), shall be paid and applied to and for the use of the poor of the parish or place where such offence shall have been committed, and shall be paid to the overseers of the poor of such parish or place for that purpose."

Sect. 9. "And that, if any person or persons whomsoever shall counterfeit, forge, or alter, or cause or procure to be counterfeited, forged, or altered, any such note or memorandum, as aforesaid, or shall utter, vend, or sell, any such note, as aforesaid, knowing the same to be counterfeited, forged, or altered, with intent to defraud any person or persons whomsoever, in all, or any, or either, of the said cases, such person or persons shall be punished in manner hereinafter mentioned; and it shall be lawful for any person or persons, his,

* The 1 Jac. I. c. 21, enacts, that the sale of any goods wrongfully taken to any pawnbroker in London, or within two miles thereof, shall not alter the property. And see the 30 Geo. II. c. 24, s. 3.

her, or their, servants or agents, to whom any note shall be uttered or produced, shown or offered, which he, she, or they, shall have reason to suspect to have been counterfeited, forged, or altered, to seize and detain such person or persons uttering, producing, showing, or offering, the same, and to deliver him, her, or them, as soon as conveniently may be, into the custody of a constable, or other peace officer, who shall, and is hereby required, as soon as conveniently may be, to convey such person or persons before some justice or justices of the peace for the county, riding, division, city, liberty, town, or place, wherein the offence shall be supposed to have been committed; and if, upon examination, it shall appear to the satisfaction of such justice or justices, that the person or persons charged with having committed any such offence is or are guilty thereof, then, and in every such case, the said justice or justices is and are hereby authorized and required to commit the party or parties offending to the common gaol or house of correction of the county, riding, division, city, liberty, town, or place, wherein the offence shall be committed, there to be imprisoned for any time not exceeding the space of three calendar months, at the discretion of such justice or justices."

Imprisonment not exceeding three months.

Sect. 10. "And that, in case any person or persons, who shall offer by way of pawn, pledge, exchange, or sale, any goods or chattels, shall not be able, or shall refuse to give a satisfactory account of himself, herself, or themselves, or of the means by which he, she, or they, became possessed of such goods or chattels, or shall wilfully give any false information to the pawnbroker, or to his or her servant or servants, as to whether such goods or chattels are his, her, or their, own property or not, or of his or her name and place of abode, or of the name and place of abode of the owner or owners of the said goods or chattels, or if there shall be any other reason to suspect that such goods or chattels are stolen, or otherwise illegally or clandestinely obtained, or if any person or persons not entitled, nor having any colour of title by law to redeem goods or chattels in pledge or pawn, shall attempt or endeavour to redeem the same, it shall be lawful for any person or persons, his, her, or their, servants or agents, to whom such goods or chattels shall be so offered, or with whom such goods or chattels are in pledge, to seize and detain such person or persons, and the said goods or chattels, and to deliver such person or persons immediately into the custody of a constable or other peace officer, who shall and is hereby required, as soon as may be, to convey such person or persons, and the said goods or chattels so offered, before some justice or justices of the peace for the county, riding, division, city, liberty, town, or place, wherein the offence shall be supposed to have been committed; and if such justice or justices shall, upon examination and inquiry, have cause to suspect that the said goods or chattels were stolen, or illegally or clandestinely obtained, or that the person or persons offering and endeavouring to redeem the same shall not have any pretence or colour of right to redeem the same, it shall be lawful for such justice or justices to commit such person or persons into safe custody, for such reasonable time as shall be necessary for the obtaining proper information on the subject, in order to be further examined; and if, upon either of the said examinations, it shall appear to the satisfaction of such justice or justices that the said goods or chattels were stolen, or illegally or clandestinely obtained, or that the person or persons offering or endeavouring to redeem the same hath or have not any pretence or colour of right so to do, the said justice or justices is and are hereby authorized and required to commit the party or parties offending to the common gaol or house of correction of the county, riding, division, city, liberty, town, or place, wherein the offence shall be committed, there to be dealt with according to law, where the nature of the offence shall authorize such commitment by any other law; and where the nature of the offence shall not authorize such commitment by any other law, then such commitment shall be for any time not exceeding three calendar months, at the discretion of such justice or justices."

Persons not giving a good account of themselves on offering to pawn goods, liable to punishment."

Sect. 11. "And that, from and after the commencement of this act, if any person or persons shall knowingly buy or take in as a pledge or pawn, or in exchange, any goods of any manufacture, or of any part or branch of any manu-

Persons buying or taking in pledge unfinished goods or linen,

* And see the 30 Geo. II. c. 24, s. 7, 8.

POLLING.

No person to vote without producing such certificate.

Proper places to be appointed for taking such oaths, &c.

Such places to be provided previous to the election, if required.

Expenses to be defrayed by the candidates.

What votes shall be deemed legal.

Disputed votes.

7 & 8 G. 4, c. 37.

Sect. 3. If any person shall offer to vote without producing such certificate, and being lawfully required to take the said oaths, and make such declaration as aforesaid, the same shall not be administered to him by the returning officer or person taking the poll, but he shall immediately withdraw, and take the same before one of the persons appointed as aforesaid.

Sect. 5. The returning officer shall provide a proper place for every such person so appointed, to which place the respective electors may have free access without interrupting the poll, and so as the persons so appointed may act separately without interfering with each other; and every such place shall be open and attended by the person appointed to act there, during all the time of the poll; and shall be kept open eight hours at least in every day, between eight in the morning and eight in the evening, until the final close of the poll; and such oaths, &c., shall be administered to as many of the electors, being ready, as conveniently can, not exceeding twelve at one time. And the returning officer shall deliver to each person so appointed a sufficient number of printed forms of the declaration to be made by Quakers, with blanks therein for the names of the persons offering to make and subscribe the same, to be inserted therein; and also a sufficient number of printed certificates in the like form, to be filled up and delivered to each elector so taking the said oaths or affirmation.

Sect. 6. In case any candidate shall, three days at the least before such election, give or cause to be given notice in writing to the returning officer to provide proper places for administering the said oaths, declarations, and affirmations, he shall prepare and provide such proper places, so as to be ready before and against the day of election; and in case there shall not be a sufficient number of fit and convenient places for that purpose at the town or place where such election shall be had, which the returning officer can conveniently and at a reasonable expense procure, then he shall cause such booths or temporary erections to be made in convenient places in that behalf as shall be necessary for the purpose; the expense of which, and of the said printed forms, and also the allowance to be made to the several persons appointed to administer the oaths, &c., as aforesaid (not exceeding one guinea a-day each for every day's attendance) shall be paid by the candidates in equal proportions, to the returning officer, which, if not paid, may be recovered in the courts at Westminster. And see the 7 Geo. IV. c. 55; 9 Geo. IV. c. 59; *ante*, 19.

And by the 2 Geo. II. c. 24, s. 4, such votes shall be deemed to be legal, which have been so declared by the last determination in the House of Commons; which last determination, concerning any county, city, borough, cinque port, or place, shall be final, to all intents and purposes.

[N. B. Repealed as to any determination of the House of Commons subsequent to the 28 Geo. III. c. 52. See s. 31 of that act.]

By the 9 Geo. IV. c. 59, when the poll is closed, and before the proclamation of return is made, if a candidate, agent, or two electors, shall certify to the returning officer that disputed votes have been referred for decision, the proclamation shall be deferred till three of the clock of the third day, unless the votes have been previously decided. But the provisions of this act do not extend to Scotland or Ireland, or to London or Westminster.

By the 7 and 8 Geo. IV. c. 37, s. 5, voters are exempted during the election from serving as constables.

VI. Return, and Expenses of Election.

Return to be made.

By the 7 Hen. IV. c. 15, after the election, the names of the persons chosen shall be written in an indenture under the seals of the electors, and tacked to the writ.

By the 25 Geo. III. c. 84, s. 1, the returning officer shall, immediately after the final close of the poll, or on the day next after, truly, fairly, and

publicly declare the name of the person who hath the majority of votes, and shall forthwith make a return of such person; unless the returning officer, upon a scrutiny being demanded by any candidate or any two electors, shall deem it necessary to grant the same; in which case he shall proceed thereon, but so as that in all cases of a general election every returning officer, having the return of the writ, shall cause a return of a member to be filed in the Crown Office, on or before the day on which such writ is returnable; and every other returning officer, acting under a precept or mandate, shall make a return of a member in obedience to the same, six days at least before the day of the return of the writ, by virtue of which such election has been made: and so that, in case of an election upon a writ issued during a session or prorogation of Parliament, and a scrutiny being granted as aforesaid, then a return of a member shall be made within thirty days after the close of the poll (or sooner, if the same can conveniently be done.)

RETURN AND EXPENSES.

Scrutiny being demanded.

By the 7 & 8 Wil. III. c. 7, s. 1, 2, if any officer shall return any member contrary to the last determination in the House of Commons, the same shall be adjudged a false return; and the party duly elected may recover double damages with full costs.

Return not to be contrary to the last determination.

Sect. 3. And the like remedy shall be against an officer making a double return. See 1 *Peckw.* 16.

Double return.

By the 25 Geo. III. c. 84, s. 2, whenever a scrutiny shall be granted as aforesaid, and there shall be more parties than one, the returning officer shall decide alternately on the votes given for the different candidates who shall be parties to such scrutiny, or against whom the same shall be carried on.

How to proceed on a scrutiny.

Sect. 6. And such returning officer may, if he see cause during such scrutiny, administer an oath to any person consenting to take the same, touching the right of any person having voted, or touching any other matter or thing material or necessary towards carrying on such scrutiny.

Witnesses may be sworn.

Sect. 9 But nothing herein shall extend to alter or affect the election of any member for any place where particular regulations are specially enacted by statute.

Sect. 10. If upon any writ issued no return shall be made on or before the day on which such writ is returnable, or if a writ shall have been issued during any session or prorogation of Parliament, and no return shall be made within fifty-two days after the day on which such writ bears date, or if the return made in either case shall not be a return of a member according to the requisition thereof, but contain special matter only concerning such election; any person having or claiming a right to vote, or claiming a right to be returned, who shall think himself aggrieved, may petition the House of Commons concerning the same; and upon such petition being presented, a day and hour shall be appointed for taking the same into consideration, and notice thereof in writing shall be forthwith given by the speaker to the petitioners, and to the officer by whom such return should have been made, accompanied with an order to attend the house at the time appointed, by themselves, or their counsel, or agents; and a select committee shall be appointed according as is directed by the 10 & 11 Geo. III., who shall proceed therein as by the said acts are directed; and all rules and regulations in either of the said acts contained shall extend to this act.

Where no member is returned.

Sect. 8. Every person who, in taking any oath herein-before appointed, shall thereby commit wilful perjury, or unlawfully and corruptly procure or suborn any other person to take any such oath, whereby he shall commit such wilful perjury, and shall be thereof convicted, shall incur such penalties as are inflicted by the 5 Eliz. c. 9, and 26 Geo. II. c. 25, s. 8.

Persons committing perjury.

And by the 7 & 8 Wil. III. c. 25, s. 6, every such sheriff or returning officer shall deliver copies of the poll to any person desiring the same, paying a reasonable charge for writing thereof.

Copies of the poll.

Finally, by the 10 Anne, c. 23, s. 5, he shall, within twenty days after the election, deliver over upon oath (to be administered by the two next justices,) (1 Q.) the poll-books to the clerk of the peace, without alteration, to be kept amongst the records of the sessions.

39 & 40 G. 3, c. 99.

any such pawner or pawners who was or were the real owner or owners of such goods or chattels at the time of the pawning or pledging thereof, his, her, or their executors, administrators, or assigns, shall tender unto the person or persons who lent, on the security of the goods or chattels pawned, his executors, administrators, or assigns, the principal money borrowed thereon, and profit, according to the table of rates by this act established; and the person who took such goods or chattels in pawn, his or her executors, administrators, or assigns, shall thereupon, *without showing* reasonable cause for so doing, to the satisfaction of such justice or justices, neglect or refuse to deliver back the goods or chattels so pawned*, for any sum or sums of money not exceeding the said principal sum of ten pounds, to the person or persons who borrowed the money thereon, his, her, or their executors, administrators, or assigns, then and in any such case, on oath or affirmation as aforesaid thereof, made by the pawner or pawners thereof, his, her, or their executors, administrators, or assigns, or some other credible person, any justice or justices of the peace for the county, riding, division, city, liberty, town, or place, where the person or persons who took such pawn as aforesaid, his executors, administrators, or assigns shall dwell, on the application of the borrower or borrowers, his, her, or their executors, administrators, or assigns, is and are hereby required to cause such person or persons who took such pawn, his, her, or their executors, administrators, or assigns, within the jurisdiction of the justice or justices, to come before such justice or justices; and such justice or justices is and are hereby authorized and required to examine, on oath or solemn affirmation, as the case may require, the parties themselves, and such other credible person or persons as shall appear before him or them touching the premises; and if tender of the principal money due, and all profit thereon, as aforesaid, shall be proved by oath or affirmation as aforesaid to have been made (such principal money not exceeding the said sum of ten pounds) to the lender or lenders thereof, his, her, or their executors, administrators, or assigns, by the borrower or borrowers of such principal money, his, her, or their executors, administrators, or assigns, within the said space of one year, or one year and three months, as the case may be, after the said pawning or pledging of the goods or chattels, then on payment by the borrower or borrowers, his, her, or their executors, administrators, or assigns, of such principal money, and the profit due thereon, as aforesaid, to the lender or lenders, his, her, or their executors, administrators, or assigns; and in case the lender or lenders, his, her, or their executors, administrators, or assigns, shall refuse to accept thereof, on tender thereof to him, her, or them, made by the borrower or borrowers thereof, his, her, or their executors, administrators, or assigns, before any such justice or justices, such justice or justices shall thereupon, by order under his or their hand or hands, direct the goods or chattels so pawned forthwith to be delivered up to the pawner or pawners thereof, his, her, or their executors, administrators, or assigns; and if the person or persons who shall have lent any principal sum or sums of money, not exceeding, in the whole, the said sum of ten pounds, on any goods or chattels pawned, his, her, or their executors, administrators, or assigns, shall neglect or refuse to deliver up, or make satisfaction for the goods or chattels, which shall be so proved to the satisfaction of such justice or justices as aforesaid to have been so pawned, as any such justice or justices of the peace as aforesaid shall order and direct, then any such justice or justices shall, and is and are hereby authorized and required to commit the party or parties so refusing to deliver up or make satisfaction for the same, to the house of correction, or some other public prison, for the county, riding, division, city, liberty, town, or place, wherein the offender or offenders shall reside or be convicted, there to remain without bail or mainprize, until he, she, or they shall deliver up the goods or chattels so pawned, and continuing redeemable as aforesaid, according to the order of such justice or justices as aforesaid, or make such satisfaction or compensation as such justice or

Imprisonment
till re-delivery of
the goods, or sa-
tisfaction made.

* A pawnee is bound to observe more than ordinary care over the thing bailed, and if goods be taken out of his possession through stealth or by want of due care, he will be liable, but not if the

goods are forcibly taken out of his possession, unless through his fault. Sir W. Jones, 75, 79; *Ld. Raym.* 917. And see *Clark v. Earnshaw*, Gow's C. N. P. 30.

justices shall adjudge reasonable for the value thereof, to the party or parties entitled to the redemption of such goods or chattels so pawned, and continuing redeemable as aforesaid."

20 & 40 C. S., c. 99.

Sect. 15. "And, to prevent any inconvenience to persons carrying on the trade and business of a pawnbroker, from several different persons claiming a property in the same goods or chattels, be it further enacted, that, from and after the commencement of this act, any person or persons who shall at any time produce any such note or memorandum as aforesaid, to the person or persons with whom the goods therein specified were pawned or pledged, as the owner thereof, or as authorized by the owner thereof, to redeem the same, and require a delivery of the goods or chattels mentioned therein, to him, her, or them, such person or persons shall be, and is and are hereby deemed and taken to be, so far as respects the person or persons having such goods and chattels in pledge, the real owner and owners, proprietor and proprietors, of such goods and chattels, and the person or persons so using the said trade and business of a pawnbroker shall be, and is and are hereby directed and required, after receiving satisfaction pursuant to the provisions of this act, respecting principal and profit, to deliver such goods and chattels to the person or persons who shall so produce the said note or memorandum to him, her, or them, and shall be, and is and are hereby, indemnified for so doing, unless he, she, or they shall have had previous notice from the real owner or owners thereof, not to deliver the same to the person or persons producing such note, or unless notice shall have been given to him, her, or them, that the goods and chattels pawned have been, or are suspected to have been, fraudulently or feloniously taken or obtained, and unless the real owner or owners thereof proceed, in manner hereinafter provided and directed for the redeeming of goods and chattels pledged, where such note hath been lost, mislaid, destroyed, or fraudulently obtained from the owner or owners thereof."

Persons producing notes on memorandums deemed the owners.

Sect. 16. "And that, in case any pawnbroker shall have had such previous notice as aforesaid, or in case any such note or memorandum as aforesaid shall be lost, mislaid, destroyed, or fraudulently obtained from the owner or owners thereof, and the goods and chattels mentioned therein shall remain unredeemed, that then and in every such case the pawnbroker or pawnbrokers with whom the said goods and chattels were so pledged, shall, at the request and application of any person or persons who shall represent himself, herself, or themselves to the pawnbroker as the owner or owners of the goods and chattels in pledge as aforesaid, deliver to such person or persons so requesting and applying for the same, a copy of the note or memorandum so lost, mislaid, destroyed, or fraudulently obtained as aforesaid, with the form of an affidavit of the particular circumstances attending the case, printed or written, or in part printed and in part written, on the said copy, as the same shall be stated to him or her by the party applying as aforesaid, for which copy of such note or memorandum, and form of affidavit, in case the money lent shall not exceed the sum of five shillings, the pawnbroker shall receive the sum of one halfpenny; and in case the money lent shall exceed the sum of five shillings, and not exceed the sum of ten shillings, the pawnbroker shall receive the sum of one penny; and in case the money lent shall exceed the sum of ten shillings, the pawnbroker shall receive the like sum of money as he is entitled to receive and take on giving the original note or memorandum, such money to be paid by the party applying for the same at the time of making the said application; and the person or persons having so obtained such copy of the note or memorandum, and form of affidavit as aforesaid, shall thereupon prove his, her, or their property in, or right to, such goods and chattels, to the satisfaction of some justice of the peace for the county, riding, division, city, town, liberty, or place, where the said goods or chattels shall have been pledged, pawned, or exchanged, and shall also verify, on oath or affirmation, as the case may be, before the said justice, the truth of the particular circumstances attending the case mentioned in such affidavit or affirmation to be made as aforesaid, the caption of such oath or affirmation to be authenticated by the hand-writing thereto of the justice before whom the same shall be made, and who shall, and is hereby required, so to authenticate the same; whereupon the pawnbroker shall suffer the person or persons proving such property to the sa-

Where notes or memorandums lost, the pawnbroker to deliver a copy.

39 & 40 G. 3, c. 90.

Pawned goods deemed forfeited at the end of a year.

Pledges above 10s. to be sold by auction.*

Pictures, prints, books, statues, &c. shall only be sold four times in a year, &c.

On notice from persons having goods in pledge not to sell, three months further allowed beyond the year for redemption.

Account of sales of pledges above 10s. to be entered by the pawnbrokers in a book;

satisfaction of such justice as aforesaid, and making such affidavit or affirmation as aforesaid, on leaving such copy of the said note or memorandum, and the said affidavit or affirmation, with the said pawnbroker, to redeem such goods or chattels."

Sect. 17. "And that all goods and chattels which shall be pawned or pledged shall be deemed forfeited, and may be sold, at the expiration of one whole year, exclusive of the day whereon the goods and chattels were so pawned as aforesaid; and that all goods and chattels so forfeited, on which any sum above ten shillings, and not exceeding ten pounds, shall have been lent, shall be sold by public auction, and not otherwise, by the order of the person having the same in pawn, at and after the expiration of the said year; but the person employed to sell such goods and chattels by auction shall, and he is hereby required to cause the same to be exposed to public view, and catalogues thereof to be published, containing the name and place of abode of the pawnbroker, and also the month such goods were received in pawn; and the number of every such pledge as entered in the book or books kept for that purpose, at the time the same were pawned, and an advertisement, giving notice of such sale, and containing the name or names and place of abode of the pawnbroker or pawnbrokers with whom the said goods or chattels were in pledge, and also the month such goods were received in pawn, to be inserted two several days in some public newspapers, two days at least before the first day of sale; and the goods and chattels pledged with every pawnbroker shall be inserted in every catalogue, separate and apart from each other, upon pain of forfeiting to the owner or owners of the said goods and chattels, for every offence in the premises, any sum not exceeding ten pounds, nor less than forty shillings."

Sect. 18. "Provided always, that all pictures, prints, books, bronzes, statues, busts, carvings in ivory and marble, cameos, intaglieos, musical, mathematical, and philosophical instruments, and china, which shall be sold by public auction as aforesaid, shall be sold by themselves, and without other goods being sold at such sale, four times only in every year (that is to say) on the first Monday in the months of January, April, July, and October, in every year, and on the following day and days, if the sale shall exceed one day, and at no other time; and the person who shall be employed to sell the same by auction shall, and he is hereby required to cause the same to be exposed to public view, and catalogues thereof to be published, and an advertisement giving notice of such sale, and containing the name or names of the pawnbroker or pawnbrokers with whom the said goods were in pledge, to be inserted two several days in some public newspaper, three days at the least before the first day of sale, upon pain of forfeiting to the owner or owners of the said goods, for every offence in the premises, any sum not exceeding five pounds nor less than forty shillings."

Sect. 19. "Provided always, that in case any person or persons entitled to redeem goods or chattels in pledge, shall, before or upon the expiration of the said one year from the time of pawning the same, give notice in writing, or in the presence of one witness, to the person or persons having the same in pledge, or leave the same at his, her, or their, usual place of abode, not to sell the same at the end of the said one year, then and in every such case, such goods or chattels shall not be sold or disposed of by the person or persons having the same in pledge until after the expiration of three calendar months, to be computed from the expiration of the said year, during which said term of three calendar months, the owner or owners of the said goods and chattels shall have liberty to redeem the same, upon the terms stipulated and provided by this act."

Sect. 20. "And that all and every person or persons with whom any goods or chattels shall have been pawned or pledged, shall from time to time enter in a book or books, to be kept by him, her, or them, for that purpose, a true and just account of the sale of all goods and chattels pawned with him, her, or them, for upwards of ten shillings,* which shall be sold as aforesaid, expressing the day of

* A pawnbroker has no right to sell unredeemed pledges after the expiration of the year, if the original owner tender the principal and interest due

before actual sale. *Walter v. Smith*, 5 B. & A. 439; 1 D. & R. 1, S. C.

* A very unfair advantage has been generally taken by pawnbrokers of this

the month when such goods were pledged, and the name of the person pledging the same, according to the entry made at the time of receiving the same in pawn; and also the day when, and the money for which, such goods or chattels pawned were sold, together with the name and place of abode of the auctioneer by whom the same were sold, according to the information thereof from the auctioneer; and in case any such goods or chattels shall be sold for more than the principal money and profit aforesaid due thereon at the time of such sale, the overplus shall, by every such pawnbroker, be paid, on demand, to the person by whom or on whose account such goods or chattels were pawned, his, her, or their executors, administrators, or assigns, in case such demand shall be made within three years after such sale, the necessary costs and charges of such sale being first deducted; and such person or persons who pawned or pledged such goods or chattels, or for whom such goods or chattels were so pawned or pledged, his, her, or their executors, administrators, or assigns, shall, for his, her, or their satisfaction in this matter, be permitted to inspect the entry to be made as aforesaid of every such sale, paying for such inspection the sum of one penny and no more; and in case any person or persons shall refuse to permit any such person or persons who pawned or pledged such goods or chattels, or who is or are entitled to such overplus money, to inspect such entry as aforesaid in any such book or books, (such person or persons, if an executor or executors, administrator or administrators, or assignee or assignees, at such time producing his, her, or their letters testamentary, letters of administration or assignment), or in case the goods or chattels were sold for more than the sum entered in any such book or books, or if any such person or persons shall not make such entry as aforesaid, or shall not have *bona fide*, according to the directions of this act, sold the same, or shall refuse to pay such overplus, upon demand, to the pawner or pawners, owner or owners, his, her, or their executors, administrators, or assigns, (he, she, or they producing such their letters testamentary, letters of administration or assignment), every such person or persons so offending shall, for every such offence, forfeit the sum of ten pounds, and treble the sum such goods and chattels shall originally have been pawned for, to the person or persons by whom or on whose account such goods and chattels were pawned, his, her, or their executors, administrators, or assigns, to be levied by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of any two justices of the peace for the county, riding, division, city, town, liberty, or place, where the offence shall be committed."

and overplus paid to the owner of the goods pawned or sold, &c.

on penalty of 10*l*. and treble the sum lent on pawn.

Sec. 21. "And that, from and after the commencement of this act, no person or persons having any goods or chattels in pledge, shall, under any pretence whatsoever, either by himself or herself, or by any other person for him or her, purchase any such goods or chattels so being in pledge with him or her, during the time the same shall remain in his or her custody as such pledge, save and except at such public auction as aforesaid, nor shall suffer the same to be redeemed with a view or intention to purchase the same; nor shall any such person taking or having any goods or chattels in pledge, make or cause to be made any contract or agreement with any person or persons offering to pledge or pledging the same with the owner or owners of the pledge, for the purchase, sale, or disposition of the said goods and chattels before the expiration of one whole year from the time of pawning or pledging the same; nor shall any pawnbroker purchase or receive or take any goods or chattels in pledge of or from any person or persons who shall appear to be under the age of twelve years, or to be intoxicated with liquor; or purchase or take in pawn, pledge, or exchange the note or memorandum aforesaid of any other pawnbroker; nor buy any goods or chattels in the course of his, her, or their trade or business, before the hour of eight of the clock in the forenoon, or after the hour of seven of the clock in the evening throughout the year; nor employ any servant or apprentice, or any other person under the age of sixteen years, to take in any pledge or

Pawnbroker shall not purchase goods while in his custody.

Pledges not to be taken from persons under twelve years of age or intoxicated.

Hours of buying goods or taking in pawn limited.

distinction, where goods of considerably greater value than ten shillings are pledged for less than that amount; the absolute forfeiture of such goods being

very commonly insisted upon.—*Mr. Evans's Note in his Coll. Stat.*; 1 *Chit. Coll. Stat.* 757.

39 & 40 G. 3, c. 99.

pledges; nor receive or take in any goods or chattels by way of pawn, pledge, or in exchange, before eight of the clock in the forenoon, or after eight of the clock in the evening, between Michaelmas Day and Lady Day following; or before seven of the clock in the forenoon, or after nine of the clock in the evening, during the remainder of the year, excepting only until eleven of the clock in the evenings of Saturday throughout the whole year, and the evenings preceding Good Friday and Christmas Day, and every fast or thanksgiving day to be appointed by his majesty; nor shall any person or persons exercise or carry on the trade or business of a pawnbroker on any Sunday, Good Friday, Christmas Day, or on any fast day or thanksgiving day to be appointed as aforesaid."

Pawnbrokers to place in view the table of profits, &c.

Sect. 22. "And that, upon and from and after the commencement of this act, all and every person and persons who shall follow and carry on the trade and business of a pawnbroker, shall cause to be painted or printed, in large legible characters, the rate of profit allowed by this act to be taken by him, her, or them, and also the various prices of the notes or memorandums to be given by him, her, or them, according to the rates aforesaid, and an account of what notes or memorandums are to be delivered gratis, and of the expense of obtaining a second note or memorandum where the former one has been lost, mislaid, destroyed, or fraudulently obtained, and place the same in a conspicuous part or parts of the shop or other place wherein he, she, or they, shall carry on such trade or business, so as to be visible to and legible by the persons pledging goods and chattels standing in the several boxes or places provided for such persons coming to pawn or redeem goods and chattels at such shop."

Pawnbroker's names and business to be placed over his door, on penalty of 10*l*. &c.

Sect. 23. "And, for the better manifesting by whom the trade or business of a pawnbroker shall hereafter be carried on, be it further enacted, that from and after the commencement of this act, all and every person or persons who shall follow or carry on the trade or business of a pawnbroker, shall cause to be painted or written, in large legible characters, over the door of each shop or other place by him, her, or them, respectively made use of for carrying on that trade or business, the Christian and surname or names of the person or persons so carrying on the said trade or business, and the word "Pawnbroker," or "Pawnbrokers," as the case may be, following the same, upon pain of forfeiting the sum of ten pounds for every shop or place which shall be so made use of for the space of one week without having such name or names, and the said word, so painted or written as aforesaid, to be recovered by distress and sale of the offender's goods and chattels, by warrant under the hands and seals of any two justices of the peace acting within the respective county, riding, division, city, town, liberty, or place (which warrant such justices are hereby authorized and required to grant,) upon the confession of the party or parties, or upon the information of any credible witness or witnesses, upon oath or affirmation, as the case may be; and in case sufficient distress shall not be found, or such penalty shall not be forthwith paid, it shall be lawful for such justices, and they are hereby required, by warrant under their hands and seals, to cause the offender or offenders to be committed to the county gaol or house of correction, there to remain without bail or mainprize, for any time not exceeding three calendar months, nor less than fourteen days, unless the said penalty, and all reasonable charges, shall be sooner paid and satisfied."

Pawnbrokers selling goods before limited time, or injuring them, &c., shall make a reasonable satisfaction, on penalty of 10*l*.

Sect. 24. "And that, if in the course of any proceedings before any justice or justices of the peace, in pursuance of or under this act, it shall appear, or be proved to the satisfaction of the justice or justices upon oath or solemn affirmation, that any the goods and chattels pawned as aforesaid have been sold before the time allowed by this act, or otherwise than according to the directions of this act, or have been embezzled or lost, or are become or have been rendered of less value than the same were at the time of pawning or pledging thereof, by or through the default, neglect, or wilful misbehaviour of the person or persons by whom the same were so pledged or pawned, his, her, or their executors, administrators, or assigns, agents or servants, then and in any such case it shall be lawful for every such justice and justices, and he and they is and are hereby required, to allow and award a reasonable satisfaction to the owner or owners of such goods or chattels in respect thereof, or of such damage, and the sum or sums of money so allowed or awarded, in case the same shall not amount to

the principal and profit aforesaid, which shall appear to be due to any person or persons with whom the same were so pledged or pawned, his, her, or their executors, administrators, or assigns, shall be deducted out of the said principal and profit; and in all cases where the goods and chattels pawned as aforesaid shall have been damaged as aforesaid, it shall be sufficient for the pawner or pawners, his, her, or their executors, administrators, or assigns, to pay or tender the money due upon the balance, after deducting out of the principal and profit as aforesaid, for the goods or chattels pawned, such reasonable satisfaction in respect to such damage, as any such justice or justices shall order or award, and upon so doing, the justice or justices shall proceed as if the pawner or pawners, his, her, or their executors, administrators, or assigns, had paid or tendered the whole money due for the principal and profit aforesaid: and if the satisfaction to be allowed and awarded to the owner or owners of such goods or chattels, shall be equal to or exceed the principal and profit aforesaid, then and in such case the person or persons to whom the same were so pledged or pawned, his, her, or their executors, administrators, or assigns; shall deliver the goods and chattels so pledged to the owner or owners thereof, without being paid any thing for principal or profit in respect thereof, and shall also pay such excess (if any) to the person or persons entitled thereto, under the penalty of ten pounds, to be recovered and applied in manner hereinafter mentioned."

Sect. 25. "And that it shall be lawful for any justice of the peace, upon complaint made to him on the oath or affirmation of one or more credible witness or witnesses, wherein any information shall be laid against any pawnbroker, for having offended against this act, or respecting any dispute between any pawnbroker and person having pawned goods, or the owner or owners of goods pawned, or respecting any felony or other matter, or on any other occasion whatsoever, which in the judgment of any justice or justices shall make the production of any book, note, voucher, memorandum, duplicate, or other paper necessary, which shall or ought to be in the hands, custody, or power of any pawnbroker, to summon such pawnbroker before him, to attend, with all and every or any book, note, voucher, memorandum, duplicate, or paper which he or she may or ought to have in his or her custody or power relating to the same, which he or she is hereby required to produce before such justice or justices, in the state the same was or were made at the time the pawn or pledge was received, without any alteration, erasure, or obliteration whatsoever; and in case such pawnbroker shall neglect or refuse to attend, or to produce the same in its true and perfect state, such pawnbroker shall, in case he or she doth not show good cause for such neglect or refusal, to the satisfaction of such justice or justices, forfeit any sum not exceeding ten pounds nor less than five pounds, to be levied and applied in the manner hereinafter mentioned."

Sect. 26. "And that, in case any pawnbroker shall, from and after the commencement of this act, in anywise offend against this act, every such pawnbroker shall, for every such offence in neglecting to make or cause to be made, in a fair and regular manner, in such book or books as aforesaid, any such entry as is required to be made by him, her, or them by this act, forfeit such sum of money as to the justice or justices, before and by whom any information thereon shall be heard and determined, in his or their discretion shall seem reasonable and fit, not exceeding the sum of ten pounds, and for every other offence against

30 & 40 G. 2, c. 60.

Pawnbrokers shall produce their books when necessary,

on penalty from 10*l.* to 5*l.*

Penalties on pawnbrokers offending against this act, in neglecting entries not exceeding 10*l.* and for other offences from 40*s.* to 16*l.*."

* *R. v. Beard*, 12 East, 672. This was an application for a mandamus to be issued to the defendant, a magistrate of Lancashire, commanding him to hear and determine an information exhibited before him by J. S. against Robert Rawlinson, a pawnbroker, for certain trespasses and contempts against the late Pawnbroker's Act of the 39 & 40 Geo. III. c. 99. The information laid before the magistrate on the 4th of June, 1810, charged that Rawlinson, a pawn-

broker at Manchester, unlawfully demanded, received, and took from one J. S., in the name of J. D., on redeeming the pledge after mentioned, 6*d.* by way of profit for the loan of 3*s.*, the same being an intermediate sum exceeding 2*s.* 6*d.* and not exceeding 40*s.*, which, on the 15th of Dec. 1809, was lent by Rawlinson to J. S. on a pledge of two spoons, the said pledge not having remained in pawn any time exceeding six calendar months, being more

39 & 40 G.3, c. 99.

this act, where no forfeiture or penalty is provided, or imposed on any particular or specific offence against any part of this act, not less than forty shillings, nor more than ten pounds; and that all forfeitures incurred by any offence committed against this act shall and may be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant under the hand and seal, or hands and seals, of any justice or justices of the peace for the county, riding, division, city, liberty, town, or place where the offence shall be committed; and the justices shall award one moiety of the said penalties to the parties complaining, and the remainder of the aforesaid penalty or penalties, not otherwise disposed of and applied by this act, is to be paid and applied to and for the use of the poor of the parish or place where the offence shall have been committed, and shall be paid to the overseers of the poor of such parish or place for that purpose.*

Limiting the time of prosecuting by information, twelve months. Information to be made before a justice near the place.

Sect. 27. "Provided always, that no person or persons using or exercising the trade or business of a pawnbroker shall be subject or liable to any prosecution or information, before any justice or justices of the peace, by virtue of this act, for any offence or offences against this act, unless information shall be given of such offence or offences within twelve calendar months next after the offence or offences committed; and that all and every such information and informations shall be given and prosecuted before such justice or justices of the peace, as shall act as such justice or justices near to the place where such offence or offences shall have been committed, unless the same shall have been committed within the city or liberties of London."

Churchwardens, &c. to prosecute, &c.

Sect. 28. "And that the churchwardens and overseers of the poor of any parish or place, where any offence shall be supposed to have been committed by any pawnbroker against this act, or some or one of such officers, at the discretion or direction of any justices of the peace, on having notice from such justice of the peace, of such offence being supposed to have been committed, shall, and they or some or one of them, to be nominated by such justice as aforesaid, are and is hereby required to prosecute every offender for every offence, so to be suggested by such justice to have been committed against this act, at the expense of the respective parish whereof they or he are, is, or shall be for the time being such officers or officer."

Convicted persons, &c. not to prosecute or inform against persons, &c.

Sect. 29. "And that no person who has been convicted of any fraud, or of obtaining money under false pretences, or of any felony whatsoever, shall be allowed to prosecute or inform against any person or persons, for any offence or offences committed against this act."

Act not to extend to persons lending money at 5*l.* per cent. without farther profit.

Sect. 30. "Provided always, that nothing in this act contained shall extend or be construed to extend, to any person or persons whomsoever, who shall lend money to any person or persons whomsoever upon pawn or pledge, at the rate of five pounds per centum per annum interest, without taking any further or greater profit for the loan or forbearance of such money lent, on any pretence whatsoever."

The act to extend to executors, &c. of pawnbrokers.

Sect. 31. "And that all and every the provisions, regulations, and clauses contained in this present act shall, from and after the end of this present session of Parliament, extend to and include the executors, administrators, and assigns of all and every deceased pawnbroker, in the same manner as the same extend to and include the pawnbroker when living, save and except that no such executor

than at the rate of 4*d.* for the loan of 20*s.* by the calendar month, contrary to the statute; and then claimed a penalty of not less than 40*s.* nor more than 10*l.* The question was, whether this were a case for a summary conviction in a penalty within the statute; the magistrate thought it was not, and refused to proceed upon the information. The 2nd and 3rd sections of the said act were cited. No penalty is given by these clauses, but penalties are given by se-

veral clauses of the act for specific offences, and the act also contains many regulating clauses; s. 26 also was cited.—*Lord Ellenborough, C. J.* It is prohibited by the act to take more than the stipulated rate of profit; and, therefore, the taking more is an offence against the act; and as no particular penalty is provided for that transgression, it falls within the general words of the 26th clause. *Per Cur. Rule absolute.*

* See note, *ante*, p. 47.

or administrator of any such deceased pawnbroker shall be answerable for any penalty or forfeiture personally, or to be paid out of his, her, or their own monies or estates, unless the same shall be incurred and forfeited by his, her, or their own act or neglect." 29 & 40 G. 3, c. 50.

Sect. 32. And "that, if any person or persons shall at any time or times be sued, molested, or prosecuted, for any thing by him, her, or them done or executed in pursuance of this act, or of any clause, matter, or thing herein contained, such person or persons may plead the general issue, and give the special matter in evidence for his, her, or their defence; and if upon the trial a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall become nonsuited, then such defendant or defendants shall have double costs awarded to him, her, or them against such plaintiff or plaintiffs." General issue.
Double costs.

Sect. 33. Provides, "that in all actions, suits, informations, trials, and other proceedings in pursuance of this act, or in relation to any matter or thing herein contained, any inhabitant of the parish, town, or place in which any offence or offences shall be committed, contrary to the true intent and meaning of this act, shall be admitted to give evidence, and shall be deemed a competent witness, notwithstanding his or her being an inhabitant of the parish, town, or place wherein any such offence or offences shall be supposed to have been committed." Inhabitants of any place where offences committed deemed competent witnesses.

Sect. 34. And "that the justice or justices before whom any person shall be convicted, in manner prescribed by this act, shall cause such respective conviction to be drawn up in the form or to the effect following; (that is to say), Form of conviction.

*{ Be it remembered, that on this day of , in the year of
to wit. } his majesty's reign, A. B. is convicted before , of his majesty's justices
of the peace for the said county of , [or, for the riding or division of the
said county of , or, for the city, liberty, or town of , as the case shall
happen to be] for , and the said do adjudge him [or, her] to
pay and forfeit for the same the sum of . Given under the
day and year aforesaid."*

"And the said justice or justices before whom such conviction shall be had, shall cause the same, so drawn up in the form or to the effect aforesaid, to be fairly written upon parchment, and transmitted to the next general, or general quarter session of the peace to be held for the county, riding, division, city, town, liberty, or place wherein such conviction was had, to be filed and kept amongst the records of the said general or quarter session; and in case any person or persons so convicted shall appeal from the judgment of the said justice or justices, to the said general or quarter session, the justices in such general or quarter session are hereby required, upon receiving the said conviction, drawn up in the form or to the effect aforesaid, to proceed to the hearing and determination of the matter of the said appeal at such next session, and not afterwards, according to the directions of this act; any law, custom, or usage to the contrary notwithstanding; and no *certiorari* shall be granted to remove any conviction or other proceedings had thereon in pursuance of this act." To be filed.

Sect. 35. Provides, "that if any person convicted of any offence or offences punishable by this act shall think himself or herself aggrieved by the judgment of the justice or justices before whom he or she shall have been convicted, such person shall have liberty to appeal to the justices, at the next general or quarter sessions of the peace which shall be held for the county, riding, division, city, liberty, town, or place where such judgment shall have been given, and that the execution of the said judgment shall in such case be suspended, the person so convicted entering into a recognizance at the time of such conviction, with two sufficient sureties, in double the sum which such person shall have been adjudged to pay or forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices, in their said next general or quarter session, and to pay such costs as the said justices in such session shall award on such occasion, which recognizance the said justice or justices before whom such conviction shall be had, is and are hereby empowered and required to take; and the justices in the said general or quarter session are hereby authorized and required to hear and finally determine Appeal.

30 & 40 G. 3, c. 90.

the matter of the said appeal, and to award such costs as to them shall appear just and reasonable to be paid by either party; and if, upon the hearing of the said appeal, the judgment of the justice or justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall immediately pay the sum which he or she shall have been adjudged to forfeit, together with such costs as the justices in the said general or quarter session shall award to be paid for defraying the expenses sustained by the defendant or defendants in such appeal, or in default of making such payment, shall suffer the respective pains and penalties by this act inflicted upon persons respectively who shall neglect to pay, or shall not pay the respective sums or forfeitures by this act to be paid by or imposed upon persons respectively, who shall be convicted by virtue of this act.³

Public act.

Sect. 36 makes it a public act.

30 Geo. 2, c. 24.

By the 30 Geo. II. c. 24, s. 16, any justice unto whom complaint upon oath shall be made of any offence committed against this act, shall issue his warrant for bringing before him, or some other justice of such place, the person charged with such offence; and the justice before whom he is brought shall hear and determine the matter, and proceed to judgment and conviction; and if it shall appear upon oath, to the satisfaction of such justice, that any person within his jurisdiction can give material evidence on behalf of the prosecutor, or of the person accused, and who will not voluntarily appear, he shall issue his summons to convene him to give his evidence; and, if he shall neglect or refuse to appear on such summons, and no just excuse shall be offered, then (on proof upon oath of the summons having been duly served upon him) he shall issue his warrant to bring such witness before him; and, on his appearance, if he shall refuse to be examined on oath, without offering just cause for such refusal, the justice shall commit him to the public prison for any time not exceeding three months; and if, on such examination, the justice shall deem the evidence of any such witness to be material, he may bind over such witness, unless a feme-coverte, or under the age of twenty-one years, by recognizance in a reasonable penalty, to appear and give evidence at the next sessions or assizes.

No fees to be taken.

By s. 13, no fee or gratuity shall be taken for any summons or warrant granted by any justice or justices, in pursuance of this act, so far as the same relates to goods pawned, pledged, taken in exchange, or unlawfully disposed of.

Penalty on persons pawning, or receiving in pawn, clothes or other articles, marked "Chelsea Hospital," or defacing the marks, £10.

By the 5 Geo. IV. c. 107, s. 1, after reciting, "whereas several of the pensioners of the royal hospital for soldiers at Chelsea, and other persons, have at various times pawned or illegally disposed of clothes, linen, stores, and other goods, delivered to them to wear or use, and it is expedient to prevent the unlawful pawning and disposing of the like goods in future," it is enacted, "that the commissioners of the said royal hospital and their successors shall and may, and they are hereby authorized and empowered to cause the clothes, linen, stores, and other articles, belonging to the said hospital, capable of being marked, to be from time to time marked, stamped, or branded, with the words 'Chelsea Hospital;' and if any pensioner or other person or persons shall pawn, sell, or illegally dispose of, or if any pawnbroker, or other person or persons, shall take in pawn, buy, exchange, or receive, any clothes, linen, or other goods, marked, stamped, or branded, as aforesaid, upon any account or pretence whatever (such mark, stamp, or brand, thereon to be considered and taken as sufficient evidence, without further proof, that the articles so marked, stamped, or branded, are the property of the said commissioners), or if any pensioner, or other person or persons, shall cause such mark or stamp, marks or stamps, to be taken out, obliterated, or defaced, from any of the articles belonging to the said royal hospital, the person or persons so offending shall forfeit for every such offence the sum of £10, upon conviction thereof by the oath of one or more credible witness or witnesses, before any one or more of his majesty's justices of the peace of the county wherein the said offence or offences shall be committed; which penalty shall be levied by warrant, under the hand and seal, or hands and seals, of the said justice or justices of the peace, by distress and sale of the goods and chattels of the said offender or offenders, one moiety of which said penalty or penalties shall be paid to the informer or informers, and the other moiety shall go and be paid to

How such penalty shall be levied and applied.

the use of the said hospital; and, in case any offender who shall be convicted, as aforesaid, of having pawned, sold, or illegally disposed of, or bought, exchanged, received, or taken in pawn, any such clothes, linen, or other goods, as aforesaid, or of having caused such mark or stamp, marks or stamps, as aforesaid, to be taken out or defaced, shall not have (or shall, at the time of conviction, declare that he or she has not) sufficient goods and chattels whereon distress may be made to the value of the said penalty or penalties recovered against him or her for such offence or offences; or, in case it shall be considered by the justice or justices before whom such offender shall be convicted, that the offender so convicted is likely to abscond before the said penalty or penalties can be levied by distress, then, and in every such case, such justice or justices of the peace shall and may, by warrant under his or their hand and seal, or hands and seals, commit the offender to the common gaol of the county where such offence or offences shall be committed, there to remain without bail or mainprize for the space of three calendar months, or until the said penalty or penalties shall be paid."

5 Geo. 4, c. 107.

Forms.

(No. 1.)

_____, to wit. Be it remembered, that on, &c. A. B. of _____, cometh before me, Esq. one of his majesty's justices of the peace in and for the city of _____ (or in and for the county of _____), and acting near the place where the offence hereinafter mentioned was committed, and giveth me, the said justice, to understand and be informed, that [C. D. of _____, after the commencement of a certain statute passed in the 39th and 40th years of the reign of our lord the late King George the Third, intituled, "An Act for the better Regulating the Business of Pawn-brokers," to wit, on the _____ day of _____, in the year of our Lord _____, aforesaid, and from thence until and at the time of exhibiting this information, did follow and carry on the trade and business of a pawnbroker, at and in a certain shop, in and parcel of a certain dwelling-house, situate and being in _____, in [the city of London] aforesaid: nevertheless, the said C. D., not regarding the said act of Parliament*, did not, nor would, whilst he so followed and carried on the said business as aforesaid, cause to be painted or printed, in large legible characters, the rate of profit allowed by the said act to be taken by him the said _____, and also the various prices of the note or memorandum to be given by him, according to the rates in and by the said act allowed, and an account of what notes or memorandums were to be delivered gratis, and of the expense of obtaining a second note or memorandum, where the former one has been lost, mislaid, destroyed, or fraudulently obtained, and place the same in a conspicuous part of the said shop, wherein he so carried on the said trade or business as aforesaid, so as to be legible by the persons pledging goods and chattels, standing in the places provided for such persons coming to pawn or redeem goods and chattels at the said shop; but on the contrary thereof, he the said C. D., during the time aforesaid, wholly neglected and omitted so to do, contrary to the form and effect of the said act of Parliament,] whereby, and by force of the said act of Parliament, the said C. D. hath forfeited for his said offence a penalty of not less than forty shillings, nor more than 10*l.*, in the discretion of me the said justice: and thereupon the said A. B. prays the judgment of me the said justice, of and upon the premises, and that the said C. D. may be summoned to answer the same, and to make his defence thereto before me.

Information against a pawnbroker, on 30 & 40 Geo. 3, c. 98, s. 22, for not exhibiting a table of interest.*

(No. 2.)

Commencement as in form (1) to *) did not, nor would, whilst he so followed and carried on the said business as aforesaid, cause to be painted or written in large legible characters over the door of the said shop, by him, during the time aforesaid, made use of for carrying on the said trade or business of a pawnbroker, the Christian and surname of him the said C. D., so carrying on the said trade or business as aforesaid, and the word pawnbroker following the same, according to the form and effect of the said act of Parliament; but on the contrary thereof, he the said C. D., during the time

Information on like act, s. 22, against a pawnbroker for not having his name and description over the door.

* See this form, and the most of the others, in *Paley on Convictions*.

FORMS.

aforesaid, to wit, on, &c., and from thence for the space of one [week], and upwards, then next following, made use of the said shop for carrying on the said trade and business of a pawnbroker, without having such Christian and surname of him the said C. D. and the word "pawnbroker" so printed or written as aforesaid, contrary to the form and effect of the said act of Parliament, whereby, and by force of the said act of Parliament, the said C. D. hath forfeited for his said offence the sum of 10l.; and thereupon, &c. [Conclude as in form (1).]

(No. 3.)

Information on like act, s. 21, against a pawnbroker for taking pledges of a child under twelve years of age.

Commencement as in form (1). State the offence thus:] That after the commencement of a certain statute passed in the 39th and 40th years of the reign of our lord the late king, George the Third, intituled "An Act for better Regulating the Business of Pawnbrokers," and within twelve calendar months next before the exhibiting of this information, to wit, on the _____ day of _____, in the year of our Lord _____, at the parish of _____, in the said county of _____, one C. D., of the parish aforesaid, (he the said C. D. then and there being a pawnbroker,) did unlawfully receive and take in pledge a certain [cotton frock,] of and from one E. F., she the said E. F. then and there being and appearing to be under the age of twelve years, against the form of the statute in such case made and provided; whereby the said C. D., for his said offence, hath forfeited a penalty not less than forty shillings, nor more than 10l. of lawful money of Great Britain, to be applied as the said statute directs; all which the said A. B. is ready to prove before me the said justice, by a credible witness, when the said C. D. shall be summoned to make his defence touching the same; wherefore the said A. B. prays judgment of me the said justice in the premises, and that I will proceed thereupon according to law, and that the said C. D. may be summoned to appear before me, to answer the premises, and to make defence thereto.

(No. 4.)

Conviction on 30 & 40 Geo. 2, c. 99, s. 6, of a pawnbroker for taking a pledge without giving a duplicate: where the goods were pawned in an assumed name*.

_____, to wit. Be it remembered, that on this _____ day of _____, in the _____ year of his majesty's reign, _____, Martha Collins, of the parish of _____, in the county of _____, pawnbroker, is convicted before me, J. M., one of the justices of the peace for the said county of _____, for [that, or on the day of _____ last, in the parish aforesaid, in the county aforesaid, the said M. C., who then and there used the trade and business of a pawnbroker, did then and there take of and from one J. Gillner, in the name of J. Needham, by way of pledge, certain goods and chattels, to wit, (&c. &c.) upon which the said M. C. lent and advanced the sum of _____ shillings, and which said J. Gillner, at the time he pawned the said goods and chattels, informed the said Martha Collins, that his name was John Needham, and that he lived in Leonard Street, and she the said Martha Collins did not, at the time of taking the said pledge, give to the said John Gillner a note or memorandum, fairly and legibly written or printed, or in part written and in part printed, containing therein a description of the said goods so pawned, and also the place of abode of the person by whom such goods were pawned, according to the information given by the said John Gillner to the said Martha Collins, at the time of such pawning as aforesaid, contrary to the form of the statute in such case made and provided;] and I, the said justice, do adjudge the said Martha Collins to pay and forfeit for the same, the sum of £ _____, of lawful money of Great Britain; and I do award, that out of the said sum of £ _____, so forfeited as aforesaid, the sum of £ _____, being one moiety of the said sum of £ _____, be paid to J. S., the party complaining in this behalf, and that the sum of £ _____, being the remaining moiety of the said sum of £ _____, so forfeited as aforesaid, be paid and applied as the law directs. Given under my hand and seal, at _____, in the county aforesaid, the day and year first aforesaid.

Not less than 40s. nor more than 10l. s. 26. Award of one half to informer, s. 26.

(No. 5.)

The like on s. 2, for taking more than legal interest.

_____, to wit. Be it remembered, that on this _____ day of _____, in the _____ year of his majesty's reign, T. T., of the parish of _____, in the county of _____, pawnbroker, is convicted before me, I. N., Esq.

* The 34th section of this act, ante, 49, prescribes the formal parts of the conviction.

one of his majesty's justices of the peace for the said county of _____, for that, on the day of _____, in the year of our Lord _____, at the parish of _____, in the said county of _____, he, the said T. T., who then and there used and exercised the trade and business of a pawnbroker, did unlawfully demand, receive, and take of and from one H. G., on redeeming the pawn and pledge hereinafter mentioned, the sum of [one penny] of lawful money of Great Britain, as, for, and by way of profit upon the sum of [one shilling and sixpence], of like lawful money, the said sum of [one shilling and sixpence] being a sum not exceeding the sum of [two shillings and sixpence,] theretofore, to wit, on the day of _____, in the year of our Lord _____, in the parish and county aforesaid, lent and advanced by the said T. T., upon a certain pawn and pledge, that is to say, [three cotton window curtains and one chair,] to the said H. G., which said pawn and pledge was redeemed by the said H. G. within the space of seven days after the expiration of the first calendar month after the same had been so pawned and pledged as aforesaid, that is to say, on the said day of _____, in the year aforesaid, to wit, in the parish and county aforesaid, the said sum of [one penny,] so demanded, received, and taken as aforesaid, being more than at and after the rate of [one halfpenny] for the loan of any sum not exceeding [two shillings and sixpence] by the calendar month, and being greater profit than he, the said T. T., was then and there entitled, and ought to demand, receive, and take, contrary to the form of the statute in such case made and provided; and I, the said justice, do adjudge him to pay and forfeit, &c. [as in the foregoing form (4) to the end.] Given under my hand and seal, the day and year first above written.

The above is sufficient to exemplify the form directed to be used by the statute (39 & 40 Geo. III. c. 99), which only varies according to the particular offence, for which a blank is left, directed to be filled up by inserting the fact as stated in the information.

(No. 6.)

Commence as in form (1). State the offence thus:] That C. D., of _____, on the day of _____, in the year aforesaid, in the parish of _____, in the said county, (he, the said C. D., then and there using and exercising the trade and business of a pawnbroker,) did unlawfully demand, receive, and take, of and from E. F., of _____, who then and there applied and offered to redeem, and did then and there redeem, a certain [snuff-box,] before then, to wit, on the day of _____, in the year aforesaid, in the parish and county aforesaid, pledged by the said E. F. [or by one G. H.,] with the said C. D., as and by way of security for a certain sum of money, to wit, the sum of [4s.] of lawful money of Great Britain, then and there, to wit, on the day and year last aforesaid, in the parish and county aforesaid, lent and advanced by the said C. D. to the said E. F., and which said pledge did remain in pawn from thence, to wit, from the day and year last aforesaid, until and upon the said day of _____, in the year aforesaid, a certain sum of money, to wit, [twelve shillings,] of like lawful money, as and by way of profit, over and above the sum of [4s.] so lent and advanced as aforesaid, upon and for the loan of the said sum of [4s.] for the time during which the said pledge did remain in pawn as aforesaid, the said sum of [twelve shillings] so demanded, received, and taken by the said C. D., being a greater profit than was or is allowed by law to be taken by the said C. D. for the same, contrary to the form of the statute in such case made and provided; whereby and by force of the said statute, the said C. D. forfeited, for his said offence, a penalty of not less than forty shillings, nor more than 10l., in the discretion of me the said justice: and thereupon the said A. J. prays judgment of me the said justice, and that the said C. D. may be summoned to answer the premises, and to make defence thereto, before me the said justice, &c. (Conclude as in form (1).)

(No. 7.)

Commence as in form (1). State the offence thus:] That C. D., of _____, Information on 39 & 40 Geo. 3, c. 99, s. 6, after the commencement of a certain statute passed in the 39th and 40th years of the reign of our lord the late king, George the Third, intituled, "An Act for better Regulating the Business of Pawnbrokers," to wit, on, &c. at, &c., he, the said C. D., then and there being a pawnbroker, did take, by way of pawn or pledge, of and from E. F., of _____, a certain [shirt,] whereon the sum of five shillings was then and there advanced and lent by the said C. D. to the said E. F.: nevertheless, the said C. D., not regarding the said act of Parliament, did not nor would, at the time of taking the said pawn or pledge, give the said E. F. a note or memorandum fairly and legibly written or printed, or in part written and in part printed, containing therein a description of the said [shirt], which he, the said C. D., so received in pawn or pledge, and against a pawnbroker for not giving a note legibly written, describing the thing pawned.

FORMS.

also the sum of money advanced thereon, with the day of the month and year on which, and the name and place of abode of the said _____ by whom, the said [shirt] was so pawned or pledged as aforesaid, and whether the said E. F. was a lodger or housekeeper, according to the form and effect of the said act of Parliament in that behalf; but on the contrary thereof, the said A. B. giveth me, the said justice, to understand and be informed, that although the said C. D., at the time of taking the said pawn or pledge as aforesaid, did give to the said E. F. a certain note or memorandum, as and for such note and memorandum as aforesaid, yet the said [shirt], or the name and place of abode of the said E. F., and whether he was a lodger or housekeeper as aforesaid, were not fairly and legibly written or printed, or in part written and in part printed, in or upon the said note or memorandum so given by the said _____ to the said _____ as aforesaid, contrary to the form and effect of the said statute; whereby and by force of the said statute, &c. (Conclude as in form (1).)

(No. 8.)

Information against a pawnbroker on s. 11 of like act, for receiving in pawn goods in a state of manufacture, or linen put out to wash.

_____ to wit. Be it remembered, that on, &c. A. B., of, &c. cometh before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county of _____, and acting in and near the place where the offence hereinafter mentioned was committed, and [on his oath] giveth me, the said justice, to understand and be informed, that C. D., of, &c. in the parish of _____, in the said county, within the space of twelve calendar months now last past, to wit, on, &c., in the parish and county aforesaid, then and there using and exercising the trade and business of a pawnbroker, did knowingly take in as a pledge and pawn a certain material, to wit, [one case], the property of the said A. B., then and there plainly intended for the composing and manufacturing of certain goods, to wit, a [watch], after the said material had been put into a state and course of manufacture, and before the same was completed and finished for the purpose of wear or consumption, and which material then had been and was intrusted by the said A. B. to one J. W., to manufacture and work up, finish and make up, and upon which said material the said C. D. then and there, upon the said taking in the same as a pledge and pawn as aforesaid, lent the sum of [two shillings], contrary to the form of the statute in such case made and provided, whereby and by force of the said statute, the said C. D. hath forfeited for his said offence the sum of [four shillings], being double the sum so lent on the same as aforesaid, to be paid to the poor of the said parish, and to restore the said material to the said A. B.; and thereupon the said A. B. prays judgment of me the said justice, of and upon the premises, and that the said C. D. may be summoned to answer the same, and to make his defence thereto before me.

J. P.

(No. 9.)

Information against a pawnbroker on the like act, s. 24, for selling pledges before the time limited.

Commence as in form (1). State the offence thus:] That C. D., of, &c. on, &c. in the parish aforesaid and county aforesaid, then and there using and exercising the trade and business of a pawnbroker, did receive and take from one E. F., in pawn and pledge for the sum of _____, a certain [gown] of the said E. F., of the value of _____; and that the said C. D. afterwards, before the time limited in that behalf by the statute in that case made and provided, and within the space of twelve calendar months [now last past," or "next before information given in this behalf,] to wit, on the day of _____ last past, in the parish and county aforesaid, did cause the said [gown] to be sold; contrary to the form of the statute in that case made and provided. [Conclude as in form (1).]

(No. 10.)

Information against a pawnbroker, on like act, s. 14, 15, for not delivering up pledges on payment of principal and interest.

Commence as in form (1). State the offence thus:] That C. D., of, &c. on, &c. at the parish aforesaid, in the county aforesaid, then and there using and exercising the trade and business of a pawnbroker, did lend and advance unto one E. F. the sum of [five shillings] upon a certain [gown] of the said E. F., then and there pledged and pawned by the said E. F. with the said C. D., as such pawnbroker as aforesaid; and that the said C. D. afterwards, and within the space of twelve calendar months, [now last past," or "next before information given in this behalf,] to wit, on the day of _____ last past, in the parish and county aforesaid, did, without any reasonable cause, neglect and refuse to deliver back to the said E. F. the [gown] so pawned with the said C. D. as aforesaid, although the said E. F. did then and there tender to the said C. D. the said sum of [five shillings], being the principal sum borrowed thereon as aforesaid, together with the sum of _____, as the profit thereof, according to the rates established by the statute in that case made and provided: and that I, the said J. P., having caused the said C. D. to appear before me, and the said tender being then duly proved before me upon oath, and the said principal

sum and profit thereon being again then and there tendered by the said E. F. to the said C. D., and the said C. D. having then and there refused to accept of the same, I, the said J. P., did then and there, by a certain order in that behalf, under my hand, direct that the said [gown] should be forthwith delivered by the said C. D. to the said E. F., and of which said order the said C. D. then and there had notice; and that the said C. D. nevertheless did then and there neglect and refuse, and from thence hitherto hath neglected and refused to deliver up the said [gown] to the said E. F., according to the said order, or to make satisfaction to the said E. F. for the value of the same: contrary to the form of the statute in that case made and provided. [Conclude as in form (1).]

(No. 11.)

Commence as in form (1). State the offence thus:] That C. D., of, &c. on, &c. at the parish aforesaid, in the county aforesaid, did knowingly and designedly pawn and pledge with one E. F., then and there being a pawnbroker, a certain [gown], the property of G. H., and of the value of _____, she the said C. D. not being then and there employed or authorized by the said G. H. to pawn or pledge the same; contrary to the form of the statute in that case made and provided. [Conclude as in form (1).]

Information on like act, s. 8, for pawning goods the property of others.

Peace. See **Surety for the Peace.** Vol. V.

Peelers. See **Hawkers.** Vol. II.

Peers.

[9 Geo. 4, c. 31, s. 7.]

DUKES, Earls, and Barons, are not conservators of the peace at common law; and have no more power as such than mere private persons. 2 *Haw.* c. 8, s. 1. Not conservators of the peace.

The safest way of proceeding against a peer for sureties of the peace or good behaviour, is by complaint to the Court of Chancery or King's Bench. 1 *Haw.* c. 60, s. 5. 1 *Burr.* 631. Sureties of peace against.

By the common law, peers of the realm of England and peeresses, whether by birth or marriage, are constantly privileged from arrest in civil suits. And this privilege is extended, by the act of union with Scotland, to Scotch peers and peeresses: and by the act of union with Ireland, to Irish peers and peeresses.* Privileged from arrest.

They are not liable to be attached for the non-payment of money, pursuant to an order of *nisi prius*, which has been made a rule of court. 7 *T. R.* 171. From attachments.

But they are not exempted from attachments for not obeying the process of the court, 1 *Burr.* 631; nor does the privilege extend to peeresses by marriage, if they afterwards intermarry with commoners.

The court will take judicial notice of an English peerage without its being specially pleaded. *Lofft*, 49. Court take notice of.

A nobleman must be tried by his peers; but this is to be understood only at the suit of the king, upon an indictment for high treason, petit treason, felony, or misprision thereof; but in case of a *premunire*, riot, or the like, and generally for all other crimes out of Parliament, (unless otherwise specially provided for by statute, as it is in many instances,) though it be at the suit of the king, he Trial of peers.

* An Irish peer, who has voted in the election of representative peers, cannot be arrested or sued by *capias*. *Coates v. Ld. Hawarden*, 7 *B. & C.* 388; 1 *Man. & Ry.* 110 *S. C.* The

court will not, on motion, cancel a bail-bond given by a person claiming to be an Irish peer, unless his peerage be clearly made out. 3 *D. & R.* 488.

Perjury and Subornation.**PEERS.**

shall not be tried by his peers, but by the freeholders of the county. 3 *Inst.* 30.
2 *Haw.* c. 44, s. 12, *et seq.*

By the 9 Geo. IV. c. 31, s. 7, empowering the trial in England for murder or manslaughter committed abroad, it is provided that peers shall be tried for such offence as heretofore. See the clause, *post*, **Malicious Injuries**, (to persons,) Vol. III.

Outlawry of.

Process of outlawry lies against a peer, if he be indicted, and appears not, and cannot be taken: otherwise he might take advantage of his own contumacy. 3 *Inst.* 31.

Evidence.

A peer produced as a witness ought to be sworn. 3 *Keb.* 631. But this is to be understood of criminal prosecutions, and not civil actions.

And see *tit. Parliament, ante*, Vol. V.

Penal Action. See **Information**. Vol. III.

Penitentiary. (*Millbank.*) See 7 & 8 Geo. 4, c. 33, **Gaols**. Vol. I.

Pensions. See **Military Law**, Vol. III. **Seamen, post**.

Perjury and Subornation.**I. Perjury at Common Law, 57.**1. *What constitutes the Offence, 57.*

[7 & 8 Wil. III. c. 34; 8 Geo. 1, c. 6.]

2. *The Indictment, 59.*

[23 Geo. II. c. 11, s. 1.]

3. *The Evidence, 63.*4. *Certiorari, &c., 65.*5. *Punishment, &c., 65.*

[2 Geo. II. c. 25; 3 Geo. IV. c. 114.]

II. Subornation of Perjury at Common Law, 66.

[23 Geo. II. c. 11, s. 2.]

III. Perjury, and Subornation of, by Stat. 5 Eliz. c. 9, 66.

[5 Eliz. c. 9.]

IV. Perjury by particular Statutes, 69.**V. Power of Justices, &c. in, 70.**

[23 Geo. II. c. 11, s. 3.]

VI. Forms, see list of, 70.

I. Perjury by the Common Law.

[And herein, 1st, Of the Offence itself; 2ndly, The Indictment for it; 3rdly, The Evidence; 4thly, The Certiorari, &c.; and 5thly, The Punishment.]

1. What constitutes the Offence.

PERJURY by the common law seemeth to be a wilful false oath, by one who, being lawfully required to depose the truth in any judicial proceeding, swears absolutely in a matter material to the point in question, whether he be believed or not. 1 *Haw. c. 69, s. 1*; 3 *Inst.* 164. Perjury at the common law.

Wilful—The false oath must be wilful, and proved to be taken with some degree of deliberation; for if upon the whole circumstances of the case it shall appear probable that it was owing rather to the weakness than perverseness of the party, as where it was occasioned by surprise or inadvertency, or a mistake of the true state of the question, it cannot but be hard to make it amount to voluntary and corrupt perjury, which is of all crimes whatsoever the most infamous and detestable. 1 *Haw. c. 69, s. 2*. Must be wilful.

False—It is said not to be material, whether the fact which is sworn to be, in itself true or false; for however the thing sworn may happen to prove agreeable to the truth, yet if it were not known to be so by him who swears to it, his offence is altogether as great as if it had been false; inasmuch as he wilfully swears that he knows a thing to be true, which at the same time he knows nothing of, and impudently endeavours to induce those before whom he swears to proceed upon the credit of a deposition, which any stranger might make as well as he. 1 *Haw. c. 69, s. 6*. But it is otherwise on stat. 5 *Eliz. c. 9, post*. Must be false.

So, in *Pedley's* case, 1 *Leach, 327*, it was holden by *Lord Mansfield, C. J.*, that a man may be indicted for perjury in swearing that he believes a fact to be true, which he must know to be false.

It is further said, that upon this question being agitated in the Court of C. P. all the judges were unanimous, that belief was to be considered as an absolute term, and that an indictment might be supported upon such a statement. 1 *Haw. c. 69, p. 88, note (a) edit. of 1795*.

Oath—The false affirmation or declaration of any of the people called Quakers, made instead of an oath, will subject the party to the penalties of perjury, by stat. 7 & 8 *Wil. III. c. 34*, 8 *Geo. I. c. 6*, and 22 *Geo. II. c. 46*. The latter stat. (by s. 36,) enacts, "If any person making such affirmation or declaration shall be lawfully convicted of having wilfully, falsely, and corruptly affirmed and declared any matter or thing, which, if the same had been deposed in the usual form, would have amounted to wilful and corrupt perjury, every person so offending shall incur and suffer the like pains, penalties, and forfeitures, as by the laws and statutes of this realm are to be inflicted on persons convicted of wilful and corrupt perjury." See 9 *Geo. IV. c. 32, ante*, *Elibence, Vol. II*. False affirmations of Quakers.

Being lawfully required—It seemeth clear, that no oaths whatsoever, taken before persons acting merely in a private capacity, or before those who take upon them to administer oaths of a public nature without legal authority, or before those who are legally authorized to administer some kinds of oaths, but not those which happen to be taken before them or even before those who take upon them to administer justice by virtue of an authority seemingly colourable, but in truth unwarranted and merely void, can amount to perjuries, but are altogether idle and of no force. 1 *Haw. c. 69, s. 4*; *R. v. Dunn, 1 D. & R. 10*. See also, 4 *Bl. Com. 137*; and *Oaths, Vol. IV*. Must be legally sworn.

In any Judicial Proceeding—For though an oath be given by him that hath lawful authority, and the same broken, yet if it be not in a judicial proceeding, it is not perjury, because such oaths are general and extrajudicial, but it serves for aggravation of the offence. Such are, general oaths given to officers or Must be in a judicial proceeding.

OFFENCE.

ministers of justice, the oath of fealty and allegiance, and such like. Thus, if an officer commit extortion, it is against his general oath, but yet not perjury, because not in a judicial proceeding: but when he is charged with extortion, the breach of his oath may serve for aggravation. 3 *Inst.* 166; *R. v. Aylett*, 1 *T. R.* 69.

Therefore, where an oath is administered by a person that hath lawful authority to tender the same, and it is afterwards broken, yet if it be not in a judicial proceeding, it is no perjury, nor punishable by the common law. 3 *Inst.* 166. See 1 *Stark. Rep.* 511; *R. v. White, M. & M.* 271; 2 *Chit. C. L.* 303.

Swearing falsely before a magistrate, to induce him to compel another to find sureties for the peace, is indictable as perjury. 1 *Haw. c.* 69, s. 31; 1 *Camp.* 404. But no indictment lies for perjury in a voluntary affidavit taken extra-judicially before a magistrate. 4 *Bla. Com.* 137.

The taking a false oath before a surrogate, to procure a marriage license, will not support an indictment for perjury. *R. v. Foster, R. & R. C. C.* 459; and see *R. v. Alexander*, 1 *Leach*, 63. If the marriage be had under such a license, so procured, the party may be indicted for a misdemeanor. *Id.*

A party may be indicted for perjury though he have not complied with the rules and orders of a court, which are merely directory; and, therefore, where a party swore falsely in an affidavit which could not, from certain omissions in the jurat, be received in the court in which it was sworn, it was held he was indictable, the perjury being complete at the time of swearing. *R. v. Harley, R. & M., C. N. P.* 94; 1 *C. & P.* 258, S. C.

Swearing absolutely.

Swears absolutely] For the deposition must be direct and absolute; and not as he thinketh, or remembereth, or believeth, or the like. 3 *Inst.* 166. And see *Pedley's case*, 1 *Leach*, 325, *ante*, 57.

The false swearing as to the legal operation of a deed is not indictable. 1 *Esp. Rep.* 280.

Must be material to the point in question.

In a Matter material to the Point in Question]—For, if it be not material, then, though it be false, yet it is no perjury, because it concerneth not the point in issue, and therefore in effect it is extra-judicial. 3 *Inst.* 167; *R. v. McKeron*, 2 *Russ.* 541.

But it is not necessary that it appear to what degree the point in which a man is perjured was material to the issue; for if it be but circumstantially material, it will be perjury. 1 *Ld. Raym.* 258.

Much less is it necessary that the evidence be sufficient for the plaintiff to recover upon; for in the nature of the thing an evidence may be very material, and yet it may not be full enough to prove directly the point in question. 2 *Ld. Raym.* 889.

In a late case, in an indictment for perjury in an answer in Chancery, to a bill filed against the defendant for the specific performance of an agreement relating to the purchase of land, the defendant had relied on the Statute of Frauds (the agreement not being in writing), and had also denied having ever entered into such an agreement, and upon this denial he was indicted; but it was held, that the denial of an agreement, which by the Statute of Frauds was not binding on the parties, was immaterial and irrelevant, and not indictable. *R. v. Dunston, R. & M., C. N. P.* 109.

Not material whether believed or not.

Whether believed or not]—It hath been holden not to be material, upon an indictment of perjury at common law, whether the false oath were at all credited, or whether the party in whose prejudice it was intended were in the event any way aggrieved by it or not; insomuch as this is not a prosecution grounded on the damage of the party, but on the abuse of public justice. 1 *Haw. c.* 69, s. 9; 7 *T. R.* 315.

False oath, indictable in some cases, though not assignable as perjury.

In some cases, where a false oath has been taken, the party may be prosecuted by indictment at common law, though the offence may not amount to perjury. Thus, it appears to have been holden, that any person making or knowingly using any false affidavit taken abroad, (though a perjury could not be assigned on it here,) in order to mislead our courts of justice, is punisha-

ble by indictment as for a misdemeanor; and *Ld. Ellenborough, C. J.* said, "that he had not the least doubt, that any person making use of a false instrument in order to prevent the course of justice was guilty of an offence punishable by indictment." *O'Mealy v. Newell*, 8 East, 364; and see *R. v. Foster*, R. & R. C. C. 459.

INDICTMENT.

2. Indictment for Offence at Common Law.

In order to shorten and facilitate indictments and prosecutions for perjury, the 23 Geo. II. c. 11, s. 1, enacts,

Sect. 1. "And in every information or indictment for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence, and by what court, or before whom the oath was taken (averring such court or person to have a competent authority to administer the same,) together with the proper averment or averments to falsify the matter wherein the perjury is assigned, without setting forth any part of the record or proceedings either in law or equity (other than as aforesaid), or the authority of the court or person before whom the perjury was committed."

On prosecution for perjury, it shall be sufficient to set forth the substance of the offence.

In *R. v. Dowlin*, 5 T. R. 317, *Ld. Kenyon, C. J.*, said, "We have occasion to lament, in almost all the trials for perjury, that the prosecutor does not avail himself of this excellent law, which was passed to obviate difficulties in drawing indictments for this offence." In the case referred to, the commission at the Admiralty session had been unnecessarily set forth in the indictment; and it was admitted that where a prosecutor undertakes to set out in the indictment, more of the proceedings than he need under this statute, he must set them forth correctly; but it was helden that the commission at the Admiralty session, being set forth as directed to A., B., and C., and others not named, of which A., B., and C., amongst others, should always be one, the court must take it to mean, that if either of the persons named of the quorum were present, it would be sufficient.

The provisions of this statute should be attended to.

The court generally will not quash an indictment for a crime of so enormous a nature as perjury, for insufficiency in the caption or body of it, but will oblige the defendant either to plead or demur to it. 2 *Haw. c. 25*, s. 146; *sed vide* 3 D. & R. 621. A judge may refuse to try an indictment for perjury clearly bad in point of law. *R. & M. C. N. P.* 147, 210.

Quashing indictment.

With respect to the plea of *autrefois acquit* by a defendant who has been acquitted of an indictment for perjury, but not on the merits, it may be generally observed of such plea, that it is an established principle, that unless the first indictment were such as the defendant (or, if for a felony, the prisoner) might have been convicted upon by proof of the facts contained in the second indictment, an acquittal on the first indictment can be no bar to the second. *R. v. Fundercom and Abbott*, O. B. Jan. 1796, 2 East's P. C. 519. See *Acquittal, ante*, Vol. I.

Plea of *autrefois acquit*.

Inducement—Like in an indictment for a libel, some inducement is generally necessary to render the subsequent statements intelligible. No more inducement should be stated than is absolutely necessary to explain the perjury assigned. See 2 *Chit. C. L.* 307. Thus, it is sufficient to state that a certain cause had arisen, and was depending, and came on to be tried in due form of law; or that at such a court I. K. was in due form of law tried on a certain indictment then and there depending against him, for murder, and that the perjury was committed on the trial either of the civil or criminal proceeding. *R. v. Dowling*, 5 T. R. 318; *Cro. C. C. 7th ed.* 612, n. a.; 2 *Chit. C. L.* 307; 1 *Leach*, 201; *Peake*, N. P. 112.

Inducement.

Time—The time of committing the perjury should sometimes be laid with precision, *R. v. Aylett*, 1 T. R. 69. Where an indictment for perjury, in an answer in the Exchequer, alleged that the bill was filed on the 1st day of De-

Perjury at Common Law—(Indictment.)

INDICTMENT.

ember, but, on its production, it appeared to be entitled generally of the preceding Michaelmas term, as is the practice when a bill is filed in the interval between two terms: this was held to be no variance, because the day was not alleged as part of the record. *R. v. Hucks*, 1 *Stark. Rep.* 521. Where, however, the time is material with reference to the crime of the defendant, as, for instance, with reference to his previous knowledge of a fact, which knowledge he subsequently denies on oath, the time must be proved as laid. Therefore, where the assignments of perjury were alleged in this form, "whereas, in truth and in fact, the said defendant, at the time of effecting the said policy, that is to say, a certain policy of insurance, purporting to have been underwritten by — Kite by his agent Meyer, on the 13th of August, 1807, &c. (and by other writers specified in the indictment), well knew," &c., and, on the production of the policy, it appeared that it had been underwritten by Meyer for Kite on the 15th of August, the variance was held fatal. *R. v. Hucks*, 1 *Stark. Rep.* 524. See *Indictment*, Vol. III.

Place.

Place—As to the statement of place and venue, see *Indictment*, Vol. III.

The court.

The Court—The court by which the oath was administered must be correctly described. An allegation that the oath was administered before justices assigned to hold the assizes, when by the evidence it appeared that the oath was administered when the judge was sitting under the commission of oyer and terminer and goal delivery, was holden to be a fatal variance. *R. v. Lincoln*, *R. & R.* 421. But an indictment for perjury in a cause tried at the assizes has been holden good, although it alleged the oath to have been taken before one only of the judges in the commission, whereas the names of both judges were, as usual, inserted in the *nisi prius* record. *R. v. Alford*, 1 *Leach*, 150. Where the indictment alleged that the cause came on to be tried before Lloyd, *Ld. Kenyon*, &c. William Jones being associated, &c. and from the judgment-roll it appeared that Roger Kenyon was associated, &c., the variance was held fatal. 1 *Exp. R.* 97. Where the indictment alleged a bill of discovery filed in the Exchequer (in the answer to which perjury was assigned) to have been filed on a day specified, viz. 1st of December, 1807, and it appeared, on the production of the bill, to have been filed in the preceding Michaelmas term, according to the practice of the court, where a bill is filed in vacation, it was held that the variance was immaterial, the day not having been alleged as part of the document. *R. v. Hucks*, 1 *Stark. C. N. P.* 521. Where the perjury was assigned in answer to a bill alleged to have been filed in a particular term, and a copy produced was of a bill amended in a subsequent term by order of the court, it was held to be no variance, the amended bill being part of the original bill. 3 *Stark. Ev.* 1138. Where an indictment for perjury, assigned on evidence given in the Palace Court, described the court as "the Court of the King's Palace at Westminster," and it appeared from the record of the trial below, that it was called "the Court of the King's Palace of Westminster," it was held no variance. *R. v. Israel*, 3 *D. & R.* 234. And where the same indictment averred that the cause in which the alleged perjury was committed "came on to be tried, and was then and there duly tried by a jury of the county," and the record of the trial stated that the jury came of the neighbourhood of Westminster, it was held, that as the cause was in fact so tried, and no county being mentioned in the record, it was no objection. *Id.* Where an indictment for perjury, in setting out the record of a conviction, stated an adjournment to have been made by Const, Esq. and A., B., C., and D., and others, their fellow justices, &c., and an examined copy of the record of conviction, when produced, stated the adjournment to have been made by Const, Esq., and E., F., G., and others, &c., the variance was held fatal, unless the defect was supplied by evidence of an adjournment made by the persons stated in the indictment. *R. v. Bellamy*, *R. & M.*, *C. N. P.* 171.

Authority of court.

It is unnecessary to set forth the commission, from which the authority of the court is derived, in which the perjury was committed. See the 23 Geo. II. c. 11, *ante*, 59. Nor is it necessary to set out the nature of the authority of the person or court administering the oath. *R. v. Callanan*, 6 *B. & C.* 102.

But it is necessary to aver concisely they had competent authority to administer the oath. *Dougl.* 156. INDICTMENT.

The Oath—It must be averred positively and distinctly that the defendant was regularly sworn, and deposed, &c. Therefore, in an indictment in which perjury was, by the first count, charged to have been committed at a trial therein mentioned, and another count alleged that, at the trial, the defendant was found guilty, "by means of the false and material testimony of the defendant in the first count mentioned," and that a rule nisi for a new trial was granted, and that the defendant, knowingly, falsely, wilfully, and corruptly, made affidavit that the evidence given by him at the trial was true, "whereas it was false in the particulars in the first count assigned and set forth;" this latter count was held bad, for not averring distinctly that the defendant was sworn as a witness, and deposed to certain facts at the trial, instead of leaving it to be taken by intendment. *R. v. Stevens*, 5 B. & C. 246; *R. v. Richards*, 7 D. & R. 665. It is sufficient, however, in all cases, to allege in the indictment that the defendant was duly sworn. *R. v. McCarthur, Peake*, 155. And where the indictment averred that the defendant was sworn on the holy gospel of God, proof that the defendant was sworn and examined as a witness was held sufficient to support the averment. *R. v. Rowley, R. & M. N. P. C.* 302. The oath.

Where it was averred in an indictment that the defendant was sworn on the gospels, and he appeared to have been sworn according to the custom of his own country, this was considered as a variance, which would have been fatal had not the indictment been saved, by proof that he was previously sworn in the ordinary mode, *ib.*; *sed qu.* for how can perjury be assigned upon an oath which the defendant conscientiously does not consider binding? *Collyer's Stat.* 474.

It is not necessary to set out the jurat of the affidavit, *R. v. Embden*, 9 East, 437; nor is it necessary to state or prove that the affidavit was affiled in or exhibited to the court, or in any manner used by the defendant or others. *R. v. Crossley*, 7 T. R. 315.

The False Swearing—It should be averred that the defendant falsely swore, &c. *R. v. Perrott*, 2 M. & S. 385. An indictment at common law, alleging that the defendant falsely, maliciously, wickedly, and corruptly, swore, &c., without saying "wilfully," has been held to be sufficient, on the grounds that the former words include the latter. But the word *wilfully* is essential on an indictment on the statute of Elizabeth. *Cox's Case*, 1 Leach, 83, 71, 4th ed. And the words *wilfully* and *corruptly* cannot both be omitted in the indictment at common law. *R. v. Stevens*, 5 B. & C. 246. If the same person swears contrary facts at different times, it should be averred on which occasion he swore wilfully, falsely, or corruptly. *R. v. Harris*, 5 B. & A. 926; 1 D. & R. 578, S. C. Defendant falsely swore.

The Matter sworn to—Unlike to indictments for libels, it will suffice in an indictment for perjury to set out the substance of what the defendant swore. See 6 B. & Ves. 103; *R. v. Grendall*, 2 C. & P. 563; *R. v. Coppard*, 3 C. & P. 59; 1 M. & M. 118, S. C. The matter falsely sworn to need not be prefaced with the words, "to the tenor and effect following," "as follows," or "in words," or "figures following," or with other expressions which require an exact recital; but it should rather be "in substance and to the effect following." 2 Camp. 138; *Cro. C. C. 7th ed.*, 573, n. (a); and *Clay's Case*, 2 Russ. 1786; 2 Chit. C. L. 309. Or "in manner and form following, that is to say," which allow of a greater latitude. 1 Leach, 192. The matter sworn to.

But, in every case, accuracy is required, and any substantial variance will be fatal. In an indictment for perjury in an affidavit, if a word were accidentally omitted in the original document, it must not be supplied as if sworn, but the omissions must be explained by an *inuendo*. *R. v. Taylor*, 1 Campb. 404; *R. v. Lerfe*, 2 Campb. 134. If, in an indictment for perjury before a committee of the House of Commons, on an election petition, it be stated that A. B. and C. D. were returned to serve as burgesses for the said borough of New Malton, and the indenture, when produced, describes them as returned for Malton,

EVIDENCE.

without the epithet "New," the variance will be fatal. 2 *Campb.* 134, 141. But it would suffice to say, that the election was had "by virtue of a certain precept of the high sheriff of the county, by him duly issued to the bailiff of the said borough of New Malton," though the precept varied, because it is said not to be matter of description. 2 *Campb.* 140; 2 *Chit. C. L.* 310. As to other variances, see *R. v. Dudman*, 7 *D. & R.* 324; *R. v. Dunn*, 1 *D. & R.* 10; *R. v. Coppard*, 3 *C. & P.* 59; *R. v. Israel*, 3 *D. & R.* 234; *R. v. Carter*, 6 *Mod.* 168; *R. v. Greive*, 1 *Ld. Raym.* 260.

When perjury is assigned in several parts of an affidavit, those parts may be set out in the indictment, as if continuous, though they are, in fact, separated by the introduction of other matter. *R. v. Callanam*, 6 *B. & C.* 102; 9 *D. & R.* 97, *S. C.*; and see *R. v. Solomon*, *R. & M. C. N. P.* 252.

Inuendoes.

Inuendo—In setting forth the matter in the record on which the assignment is made, as well as the perjury, it is frequently necessary to make use of inuendoes in order to explain the meaning. 2 *Chit. C. L.* 310. An inuendo is defined to be a mode of explaining some matter already expressed: it serves to point out where there is precedent matter, but can never introduce a new charge; it may elucidate what is already averred, but cannot add, or enlarge, or alter, its sense. 2 *Salk.* 513; 1 *Ld. Raym.* 256; 12 *Mod.* 139; 9 *East*, 95; 2 *Chit. C. L.* 310. If it is intended to explain anything, the matter must first be put on the record for it to explain. 4 *Co.* 20, *a.*

If any use be made of the inuendo which is imperfect, it cannot be rejected as surplusage, nor will it be cured by verdict. 1 *Ld. Raym.* 256; 2 *Chit. C. L.* 311.

Where, however, the oath of the defendant was, that he had been arrested before he got to his own house, in the parish of St. Martin's-in-the-Fields, an inuendo, his house in the Haymarket, in St. Martin's, &c., is good, as only a more particular description of the same house. So, an oath being that the defendant was arrested upon the steps of his own door, an inuendo that it was the outer door is good. *R. v. Aylett*, 1 *T. R.* 70.

Where the inuendo and the matter it introduces are altogether impertinent and immaterial, it may be rejected as superfluous. 1 *T. R.* 65; 9 *East*, 93.

Assignments of perjury.

Assignments of Perjury—The indictment must assign positively the manner in which the matter sworn to is false. *R. v. Aylett*, 1 *T. R.* 70. A general averment that the defendant falsely swore, &c., upon the whole matter, is not sufficient: the indictment must proceed, by particular averments, to negative that which is false. *R. v. Perrott*, 2 *M. & S.* 385. Upon this principle it has been held that, if an insolvent debtor has sworn that his schedule contains a full, true, and perfect account of all debts owing to him, at the time of his petitioning for his discharge, an assignment of perjury on that oath, stating that "whereas, in truth and in fact, the said schedule did not contain a full, true, and perfect account," &c. (in the words of the oath), is too general; for it ought to state what debt he is charged with omitting. *R. v. Hepper*, 1 *C. & P.* 608; *R. & M. C. N. P.* 210, *S. C.* When the defendant swears only to belief, it may be proper to aver, "that he well knew" the contrary of what he swore, as in 4 *Wentw.* 231; 2 *Chit. C. L.* 312.

It should be here observed, that it will suffice to convict the defendant to prove any one of the material assignments of perjury. 2 *Ld. Raym.* 886; 2 *Campb.* 138. Yet, if the last part of one entire material assignment be disproved, it will not suffice. 2 *Campb.* 134.

Materiality.

Materiality—It must be shown, or expressly averred, that the matter sworn to was material to the question depending. *R. v. Aylett*, 1 *T. R.* 19; *R. v. M^r Heron*, 5 *T. R.* 316. But, though an allegation of this fact is essential, yet it is not necessary to set forth so much of the proceedings of the former trial as will show the materiality of the question on which the perjury is assigned: it is sufficient to allege generally that the particular question became a material question. *R. v. Dowlin*, 5 *T. R.* 311. On the other hand, if the materiality appear on the record, it is unnecessary to aver it, *T. P. C.* 139, though it is most usual to do so. 2 *Stark. C. N. P.* 423, *n.*; and see 2 *Russ.* 541.

Conclusion—After the perjury has been assigned, the indictment usually concludes, "that so the defendant did commit wilful and corrupt perjury." 2 *Leach*, 860; *Stark*. 195. But it should seem that this conclusion of law from the premises is immaterial. See 2 *Leach*, 856; 2 *Chit. C. L.* 312.

EVIDENCE.
Conclusion.

3. Evidence of Offence at Common Law.

The evidence of one witness is not sufficient to convict of perjury, as, in such case, there would be only one oath against another. *R. v. Lee*, 2 *Russ.* 545. But two witnesses are not essentially requisite to disprove the particular fact sworn to; for, if any material circumstance be proved by other witnesses in confirmation of the witness who gives the direct testimony of perjury, it may turn the scale, and warrant a conviction. *Ib.* And the rule requiring two witnesses does not apply where the evidence consists of the contradictory oath of the party accused. *R. v. Knill*, 5 *B. & A.* 929, n., and 2 *Russ.* 545.

Number of witnesses.

To convict a man of perjury, a probable evidence is not enough; but it must be a strong and clear evidence, and the witnesses must be more numerous than those on the side of the defendant; for otherwise it is only oath against oath. *Reg. v. Muscot*, 10 *Mod.* 194; *R. v. Broughton*, 2 *Str.* 1229. For there is this difference between a prosecution for perjury and a bare contest about property, that, in the latter case, the matter stands indifferent, and, therefore, a credible and probable witness shall turn the scale in favour of either party; but in the former, presumption is even to be made in favour of innocence, and the oath of the party will have a regard paid to it, until disproved. *Reg. v. Muscot*, 10 *Mod.* 194.

Probable evidence.

Proof of the evidence set out in the indictment, by a witness who speaks from memory, but will not swear that he has given the whole of the defendant's former testimony, but says that he has stated, to the best of his recollection, all that was material to the transaction in question, and is positive that nothing was said qualifying the evidence proved, is sufficient to go to the jury. *R. v. Rowley, R. & M., C. C. R.* 111; *Car. C. L.* 186, S. C.

Speaking from memory.

Though the contrary doctrine appears at one time to have prevailed, it is now well established that the party prejudiced by the perjury is a competent witness to prove the offence; and though, at one time, it was considered necessary to show that such party had satisfied the judgment in the suit in which the perjury was committed, before he could be admitted as a witness, on the ground that he might possibly make use of a conviction for the purpose of obtaining relief in equity against the judgment, yet, as it is now an established rule, that a court of equity will not grant relief on a conviction which proceeds on the evidence of the prosecutor, there can be no objection to his being admitted a witness. And, even if the indictment proceed upon the 5 *Eliz. c. 9*, which gives the prosecutor half the forfeiture incurred, it is conceived that, as in an action to recover his moiety, he would be precluded from giving the conviction in evidence, there would be no objection to his competency. 2 *Russ.* 1791, and the authorities there cited; see also 1 *Phil. Ev.* 140. But this latter doctrine seems very doubtful; and see *Bull. N. P.* 289, and *R. v. Williams*, 9 *B. & C.* 549.

Prosecutor a competent witness.

Proof that the person before whom the oath was taken acted in the capacity of an officer fully capable of administering the oath, will suffice to raise a presumption that he had competent authority to receive it; it being a general presumption of law, that an individual acting in a public capacity is duly authorized so to do. *R. v. Verelst*, 3 *Campb.* 433; 4 *T. R.* 366; and see *R. v. Crenwell*, 24th Dec. 1816; 2 *Chit. C. L.* 312, a. Sometimes, special facts must be proved, to show the existence of the authority, where it is of a special nature, and limited to particular circumstances. Thus, on an indictment against a bankrupt for perjury on his last examination before the commissioners, it is necessary

Court before whom oath taken.

EVIDENCE.

to prove the bankruptcy. 3 *Campb.* 96; 2 *Chit. C. L.* 312, a.; 1 *Stark. C. L.* 511; 3 *Stark. Ev.* 1135, 6. But such strict proof would not be required if the indictment were against a witness for perjury, before such commissioners. 3 *Campb.* 96.

Occasion of oath.

On an indictment for perjury, in an answer to a bill in equity, the bill must be proved as usual. See *Leach*, 179, 3d ed.; 2 *D. & R.* 348; *Bull. N. P.* 243, 4. As to the mode of proving it, see *ante*, Vol. II. p. 45.

On an indictment for perjury committed on the trial of a former cause, the *postea* alone is sufficient evidence to prove that there was a trial, without showing a copy of the final judgment. *Bull. N. P.* 243; 2 *P. W.* 563; *Stra.* 162; 2 *Hawk. c.* 46, s. 56; *ante*, Vol. II. p. 44.

Where the prosecutor, to prove a trial at nisi prius, put in the nisi prius record, with the minute of the verdict indorsed on it by the associate, there was no *postea* drawn up, and the associate stated that none could be drawn up, as a rule for a new trial was pending, it was held sufficient proof of the trial at nisi prius. *R. v. Browne*, 3 *C. & P.* 572; *M. & M.*, *C. N. P.* 315, S. C.; and see 8 *B. & C.* 341.

On an indictment at common law for perjury in an affidavit sworn before the Court of King's Bench, it is not necessary to prove that the affidavit was filed or exhibited, or in any manner used by the party. 7 *T. R.* 315. But this is not so when the party is indicted under the statute of Elizabeth. *Skin.* 403. Where the perjury is assigned in an answer of the defendant in chancery, the answer itself must be produced, from the proper office. *Bul. N. P.* 239; *Bac. Ab. Ev.* 624; 3 *Stark. Ev.* 1138. And, in an indictment for such perjury, it should be proved that the jurat is in the handwriting of a master in chancery. 2 *Burr.* 1189; 1 *Leach*, 50; 2 *Campb.* 508; and see *ante*, Vol. II. 44, 45.

Identity.

The identity of the party charged with the perjury should be clearly proved: this may be done as in other cases. See 1 *Leach*, 327; 3 *Stark. Ev.* 1139. It is a question for a jury; but evidence of a conclusive nature is requisite, in order to show that the defendant was the person who took the oath. 3 *Stark. Ev.* 1139. It is sufficient evidence of the identity of the prisoner with the party who actually took the oath in question, if his handwriting be proved. 2 *Burr.* 1189; 1 *Leach*, 50; 3 *Mod.* 117; 2 *Chit. C. L.* 312, b.

The perjury itself.

The perjury itself will be sufficiently shown by evidence that the defendant swore in substance and effect as stated in the indictment; and, as to what is a variance, see *ante*, 61; 3 *Stark. Ev.* 1141.

The whole of the defendant's evidence must be proved; because he might in one part have corrected any mistake made in another; though, when the perjury was committed on a cross-examination respecting a fact, not connected with the general merits of the case, proof of all the cross-examination will suffice. *Peake*, 37, 170; 2 *Chit. C. L.* 312. And it has been ruled in a late case of a similar nature, that it is sufficient for the prosecutor to prove all the evidence given by the defendant referable to the fact on which perjury is assigned. *R. v. Rowley, R. & M. C. N. P.* 299; 3 *C. & P.* 498, S. C.

Inuendoes.

The inuendoes, if material, should be proved. 1 *Stark. C. L.* 2d ed. 118; 1 *T. R.* 63; 9 *East*, 83, 95; *Cro. Car.* 489; *Cro. Jac.* 153; 3 *Campb.* 461; 7 *Price*, 544; *ante*, 62.

Materiality.

The materiality of the perjury must be proved. See *ante*, 58.

If the matter referred to by the averment be material, and affects the charge in such a manner, that the omission of it would alter the character of the perjury assigned, either in the degree in which it is charged to be injurious, or in the degree of guilt, the court will hold it must be strictly proved as it is charged, and the failure of proof, or the disproof of it, would be fatal. See *Cowp. Rep.* 72; 1 *Chit. Rep.* 603; 2 *Stark.* 510; 4 *B. & A.* 314. But, where the matters referred to consist of several particulars, some of which are material, and others not, the court will distinguish between such as are material and such as are not; and, if any one particular be disproved, to which the perjury is alleged to relate,

if the charge would remain entire, and constitute perjury, without such proof, the court will not consider it to be a variance. See *May v. Brown*, 3 B. & C. 113; 4 D. & R. 670, S. C.; 2 Chit. C. L. 312, d.

CERTIORARI,
PUNISHMENT,
&c.

To prove that the perjury was wilful and corrupt perjury, evidence may be given of expressions of malice used by the defendant towards the person against whom he gave the false evidence. *R. v. Munton*, 3 C. & P. 498. The defendant may prove that the matter sworn to falsely was not sworn to corruptly. Though perjury be assigned by the defendant in his answer, affidavit, or deposition, in writing, the defendant may prove that an explanation was afterwards given, qualifying or limiting the first answer. 3 Stark. Ev. 1145, 6; Sid. 418; 2 Keb. 576; 2 Chit. C. L. 312, d.

Wilfulness.

A party who is indicted separately with others for perjury, in swearing to the same fact, either of them, before conviction, may be a witness on the trial of the others. *Fortes. Rep.* 247; 2 Roll. Ab. 685; 2 Hale's P. C. 280.

(4.) Certiorari, &c.

It seems that the court will not ordinarily, at the prayer of the defendant, grant a certiorari for the removal of an indictment for perjury; for such crime deserves all possible discountenance, and the certiorari might delay, if not wholly discourage, the prosecution. 2 Hawk. c. 27, s. 28; see *R. v. Richardson*, 2 Leach, C. C. 500; Certiorari, Vol. I.

Certiorari.

Where the party is acquitted, no new trial is allowed in the case of perjury. *R. v. Fenwick*, 1 Sid. 135. But a new trial will be granted after verdict for the king, where it appears that the false swearing arose from mistake. *R. v. Smith*, 2 Show. 165.

New trial.

Where a true bill for perjury was found, and the judge at the assizes having refused to try it on account of manifest imperfections in the record, a new bill was preferred, whereupon the defendant was found guilty; but a new trial was granted, and then the prosecutor, instead of taking down the old record again, preferred a new indictment (for the same offence), and removed it into the Court of King's Bench by certiorari; the court refused to stay proceedings upon that indictment until the prosecutor paid the costs of the former proceedings. *R. v. Tremearne*, 5 B. & C. 761; 8 D. R. 590, 684, S. C.

Second indictment.

As to quashing indictments for perjury, see *ante*, 59.

(5.) Punishment and Consequences.

Perjury at common law is punishable by fine, imprisonment, and pillory, at the discretion of the court before whom the offender is convicted; and now, by the 3 Geo. IV. c. 114,* hard labour may be added.

Punishment.

For the further punishment of perjury, or subornation of perjury, it is enacted by the 2 Geo. II. c. 25 (made perpetual by the 9 Geo. II. c. 18), that, besides the punishment already to be inflicted by law for so great crimes, it shall and may be lawful for the court or judge before whom any person shall be convicted of wilful and corrupt perjury, or subornation of perjury, according to the laws now in being, to order such person to be sent to some house of correction within the same county, for a time not exceeding seven years, there to be kept to hard labour (a) during all the said time, or otherwise to be transported to some of his majesty's plantations beyond the seas, for a term not exceeding seven years, as the court shall think most proper."

2 Geo. 2, c. 25.
Further punishment of perjury or subornation.

A person convicted of perjury is disabled from being a juror, 2 Hawk. c. 43, s. 25; or a witness, 2 Hawk. c. 46, s. 19; 2 Russ. 1798.

Perjured person not to be a juror or witness.

(a) See the 3 Geo. IV. c. 114. Vol. II. Hard Labour.

SUBORNATION
OF.

But a pardon will restore his competency, except in the case of a conviction for perjury, or subornation of perjury, on the 5 Eliz. c. 9, s. 5, which provides that the offender shall never be admitted to give evidence in courts of justice until the judgment be reversed; and therefore the king's pardon will not, in such case, make him a competent witness. 1 *Phil. Ev.* 140; 2 *Russ.* 1798.

II. Subornation of Perjury at Common Law.

Subornation at
common law.

Subornation of perjury, by the common law, seems to be an offence in procuring a man to take a false oath, amounting to perjury, who actually taketh such oath. 2 *Hawk.* c. 69, s. 9.

But it seemeth clear that, if the person incited to take such an oath do not actually take it, the person by whom he was so incited is not guilty of subornation of perjury; yet it is certain that he is liable to be punished, not only by fine, but also by infamous corporal punishment. 2 *Hawk.* c. 69, s. 3; 6 *East*, 464; 2 *East, Rep.* 17; *R. v. Edwards*, 2 *Russ.* 518. See *Attempts*, Vol. I.

Indictment.

By the 23 Geo. II. c. 11, s. 2, it is enacted, "that in every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence, without setting forth any part of the record or proceedings, or the commission or authority of the court or person before whom the perjury was committed, or was agreed or promised to be committed. See *ante*, 59.

It does not seem to be necessary to set forth the means used by the defendant to effect his design; but it is sufficient to state that he, "by sinister and unlawful labours and means," procured the commission of the perjury. 2 *Ld. Raym.* 886; 2 *Leach*, 796. And, although it must appear on the face of the proceedings that the intention of the defendant was consummated, the word "procured" or "persuaded" will sufficiently convey this idea. 2 *Ld. Raym.* 889.

Evidence.

In support of an indictment for subornation, the record of the witness's conviction for perjury is no evidence against the suborners, but the offence of the perjured witness must be again regularly proved. 1 *Leach*, 455; *Russ.* 1796; see, further, as to the evidence, *ante*, 63 to 65.

Punishment.

The punishment is prescribed by the 2 Geo. II. c. 25, *ante*, 65; and the same punishment may, it seems, be inflicted as in perjury itself. See 5 *Co. Rep.* 99.

III. Perjury, and Subornation of, by Stat. 5 Eliz. c. 9.

5 Eliz. c. 9.

Procuring any witness to commit perjury in any matter in suit, by writ, &c. concerning any lands, goods, &c. or when sworn in perpetuam rei memoriam, punishable by forfeiture of 40l.

As to subornation of perjury, in the first place, by the 5 Eliz. c. 9, [made perpetual by the 29 Eliz. c. 5, s. 2, and 21 Jac. I. c. 28, s. 8], it is enacted (s. 3) that all and every such person and persons which shall unlawfully and corruptly procure any witness or witnesses, by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt perjury, in any matter or cause whatsoever now depending, or which hereafter shall depend in suit and variance, by any writ, action, bill, complaint, or information, in anywise touching or concerning any lands, tenements, or hereditaments, or any goods, chattels, debts, or damages, in any of the courts, viz. the king's courts of Chancery, the Star Chamber, the Whitehall, or elsewhere within any of the king's dominions of England or Wales, or the marches of the same, where any person or persons have, or from thenceforth should have authority by virtue of the king's commission, patent, or writ, to hold plea of land, or to examine, hear, or determine any title of lands, or any matter or witnesses concerning the title, right, or interest, of any lands, tenements, or hereditaments, or in any of the queen's majesty's courts of record, or in any leet, view of frank-pledge, or law day, ancient demesne court, hundred court, court-baron, or in the court or courts of the Stannary in the counties of

Devon and Cornwall; or shall likewise unlawfully and corruptly procure or suborn any witness or witnesses, which shall be sworn to testify in *perpetuum rei memoriam*; that then every such offender or offenders shall, for his, her, or their said offence, being thereof lawfully convicted or attainted, lose and forfeit the sum of forty pounds.

BY STATUTE.

5 Eliz. c. 9.

Sec. 4. "And if it happen any such offender or offenders, so being convicted or attainted as aforesaid, not to have any goods or chattels, lands or tenements, to the value of forty pounds, that then every such person so being convict or attainted of any of the offences aforesaid, shall for his or their said offence suffer imprisonment by the space of one half-year, (b) without bail or mainprize, and to stand upon the pillory, (c) the space of one whole hour, in some market town next adjoining to the place where the offence was committed, in open market there, or in the market town itself where the offence was committed."

Such offender not having goods, &c. to the value of 40*l*. to suffer imprisonment and stand in the pillory.

Sec. 5. And that no person or persons, being so convicted or attainted, be from thenceforth received as a witness to be deposed and sworn in any court of record (within England, Wales, or the marches of the same,) until such time as the judgment given against the said person or persons shall be reversed by attain or otherwise; and that, upon every such reversal, the parties grieved to recover his or their damages against all and every such person and persons as did procure the said judgment so reversed to be first given against them or any of them, by action or actions, to be sued upon his or their case or cases, according to the course of the common laws of this realm.

Persons convicted not to be received as witnesses until judgment reversed.

Sec. 6. Enacts, that if any person or persons, either by the subornation, unlawful procurement, sinister persuasion or means of any others, or by their own act, consent, or agreement, wilfully and corruptly commit any manner of wilful perjury, by his or their deposition in any of the courts before mentioned, or being examined *ad perpetuum rei memoriam*, that then every person or persons so offending, and being thereof duly convicted or attainted by the laws of this realm, shall for his or their said offence lose and forfeit twenty pounds, and to have imprisonment by the space of six months without bail or mainprize; and the oath of such person or persons so offending from thenceforth not to be received in any court of record within this realm of England or Wales, or the marches of the same, until such time as the judgment given against the said person or persons shall be reversed by attain or otherwise: and that upon every such reversal the parties grieved to recover his or their damages against all and every such person and persons as did procure the said judgment so reversed to be given against them or any of them, by action or actions to be sued upon his or their case or cases, according to the course of the common laws of this realm.

Persons committing perjury to forfeit 20*l*. and to be imprisoned for six months; and their oath not to be received in any court of record until judgment reversed.

Sec. 7. And if it happen the said offender or offenders so offending not to have any goods or chattels to the value of twenty pounds, that then he or they to be set on the pillory (d), in some market place within the shire, city, or borough where the said offence shall be committed, by the sheriff or his ministers, if it shall fortune to be without any city or town corporate; and if it happen to be within any such city or town corporate, then by the said head officer or officers of such city or town corporate, or by his or their ministers, and there to have both his ears nailed, and from thenceforth to be discredited and disabled for ever to be sworn in any of the courts of record aforesaid, until such time as the judgment shall be reversed, and thereupon to recover his damages in manner and form before mentioned.

And if such offenders have not goods to the value of 20*l*. they are to be set in the pillory and have their ears nailed, and to be disabled from being witnesses until judgment reversed.

Sec. 8. One moiety of the said forfeitures shall be to the queen, and the other moiety to such person as shall be grieved, hindered, or molested by reason of any of the offences before mentioned, that will sue for the same, &c.

Disposal of forfeitures.

Sec. 9. Enacts, that as well the judge and judges of every such of the said courts where any such suit shall be, and whereupon any such perjury shall be committed, as also the justices of assize and gaol delivery, and justices of peace

Trial of offences.

(b) See stat. 3 Geo. IV. c. 114; (d) See stat. 56 Geo. III. c. 138; Judgment, Vol. II. post, Pillory; and stat. 3 Geo. IV. c. 114, ante, p. 95.

(c) See stat. 56 Geo. III. c. 138; post, Pillory, &c.

BY STATUTE.

Proclamation at assizes.

The act is not to extend to spiritual courts.

Nor to restrain other punishment of perjury.

Statute extends only to witnesses.

Mode of proceeding.

A party must be aggrieved.

Justices at sessions.

Punishment.

at their quarter sessions, both within the liberties and without, may inquire of, hear, and determine, all offences against the said act.

Sect. 10. This act is to be proclaimed at all assizes.

Sect. 11. Provides that this act shall no way extend to any spiritual or ecclesiastical court, but that every such offender, as shall offend in form as aforesaid, shall be punished by such usual and ordinary laws as are used in the said court.

And sect. 13 also provides, that this statute shall not restrain the authority of any judge having absolute power to punish perjury before the making thereof; but that every such judge may proceed in the punishment of all offences punishable before the making of the said statute, in such wise as they might have done and used to do, to all purposes, so that they set not on the offender less punishment than is contained in this act.

Any Witness—If the defendant perjureth himself in his answer, in the Chancery, Exchequer Chamber, or the like, he is not punishable by this statute; for it extendeth but to witnesses. 3 *Inst.* 166.

But he is punishable for the same by indictment at the common law. *R. v. Morris*, 3 *Burr.* 1189.

By any Writ, Action, Bill, Complaint, or Information—It hath been resolved that these words are to be extended to the latter clause concerning perjury, as well as to this concerning subornation; because it cannot well be intended, that the makers of the act, who inflict a greater penalty on subornation of perjury than on the perjury itself, should mean to extend the purview of the law in relation to what they esteemed the lesser crime, farther than in relation to that which they esteemed the greater. 1 *Haw. c.* 69, s. 19; 5 *Rep.* 99, a.

But it is to be observed, that perjury or subornation in an action depending by indictment or criminal information, is not within this statute; but only in an action depending by writ, action, bill, complaint, or information. 3 *Inst.* 164.

Half to the Party grieved—It hath been collected from this clause, that no false oath is within the meaning of this statute which doth not give some person a just cause of complaint: and upon this ground it hath been said, that he who swears a thing which is true, but not known by him to be so, is not within this statute; because, howsoever heinous his offence may be in its own nature, yet when it proves in the event to be in maintenance of the truth, it cannot be said to give him a just cause of complaint, who would take advantage against another from his want of legal evidence to make out the justice of his cause. Also from the same ground it seemeth clearly to follow that no false oath can be within the statute, unless the party against whom it was sworn suffered some kind of disadvantage by it; for otherwise it cannot be said that any one was grieved by it; and, therefore, in every prosecution upon this statute, it must appear upon the trial that there was such a suit depending, wherein the party might be prejudiced in the manner supposed. 1 *Haw. c.* 69, s. 23.

Justices at their Quarter Sessions.—And one justice (Mr. Dalton says) may bind the offender over to the sessions. *Dalt. c.* 70.

But because the prosecution upon this statute is more difficult than by indictment at the common law, and some one must be aggrieved by the offence, offenders are seldom prosecuted upon this statute, especially at the sessions; and it seems generally the safer way to proceed by indictment at the common law, at the assizes, or in the Court of King's Bench.

Shall not restrain—From this it seemeth undoubtedly to follow, that the Court of King's Bench, &c., proceeding upon an indictment or information of perjury or subornation of perjury at the common law, may not only set a discretionary fine on the offender, but also condemn him to the pillory, without making any inquiry concerning the value of his lands or goods. 1 *Haw. c.* 69, s. 16.

The statute 5 *Eliz.* prescribes the punishment; and see further, as to the punishment, the 2 *Geo. II. c.* 25, *ante*, 65.

Either by Subornation or otherwise.—It is not necessary to set forth in the indictment, whether the party took the false oath through the subornation of another, or without any such subornation, these words being only superfluity. **BY STATUTE.**
1 *Haw. c. 69, s. 18.* **Indictment.**

Wilfully and Corruptly.—These words are necessary in an indictment or action on this statute, and cannot be supplied by adding “against the form of the statute,” or by concluding “and so a wilful and corrupt perjury did commit.” 1 *Haw. c. 69, s. 17*; and see *R. v. Stevens, 5 B. & Cres. 246; ante, 61.*

An indictment for perjury cannot be maintained, where the supposed perjury depends on the construction of a deed; but the remedy is by a civil action, if the defendant acted inconsistently with the obligation entered into. *R. v. Crespigny, 1 Esp. 280.*

Like other indictments upon statutes, the indictment should conclude “*contra formam*,” though, if this be omitted, it will be good as at common law, and the defendant may be punished with the penalties which would be inflicted if the act had not been referred to, but cannot be sentenced to the additional punishment prescribed in the statute. 2 *Hale, 191, 2*; *Cro. C. C. 8th ed. 40.*

In support of an indictment on the statute, the evidence should show that the affidavit, &c. was used conformably to the indictment. 7 *T. R. 319*; and see further, *ante, 64.* **Evidence.**

The party injured is not a competent witness. *Semble, ante, 63.*

The prosecutor, unless he is also a witness, and his name appears as such on the back of the bill, cannot claim costs as a party grieved, if the indictment is at common law, but only when it is framed on the statute. 1 *Esp. Rep. 126.* **Costs.**

IV. Perjury under particular Statutes.

The offence of Perjury is created and punished by several particular statutes.

As to Perjury relative to Government Securities, see the 48 Geo. III. c. 142; 52 Geo. III. c. 129.

Exchequer Bills, 51 Geo. III. c. 15, s. 5, 9, 10.

Stamps, 55 Geo. III. c. 184, s. 52, 53, *post, Stamps.*

Customs, 6 Geo. IV. c. 106, s. 31. See *Excise, Vol. II.*

Excise, 7 & 8 Geo. IV. c. 53, s. 29, 30, 31. See *Excise, Vol. II.*

Naval Stores, 39 & 40 Geo. III. c. 89, s. 36. See *Stores, post.*

Quarantine, 6 Geo. IV. c. 78, s. 28, 29. See *Quarantine, post.*

Pilotage, 6 Geo. IV. c. 125, s. 80. See *Ships, post.*

Vessels carrying Passengers, 43 Geo. III. c. 56, s. 7.

Insolvents, 7 Geo. IV. c. 57, s. 71. See *Insolvents, Vol. III.*

Bankrupts, 6 Geo. IV. c. 16, s. 36, 37, 99. See *Bankrupt, Vol. I.*

Registry Acts, 2 & 3 Anne, c. 4, s. 18; 6 Geo. 4, c. 110. See *Excise, Vol. II.*

Inclosure Acts, 41 Geo. III. c. 109, s. 1, 3, 4, 33, 42, 43. See *Inclosures, Vol. III.*

At Elections, 18 Geo. II. c. 18, s. 1; 19 Geo. II. c. 28. See *Parliament, ante.*

And see these acts collected in Mr. Collyer's work on Statutes, title, “Perjury.”

V. Power and Duty of Justices, in Cases of.

Mr. Hawkins says, it hath been of late settled, that justices of the peace have no jurisdiction over perjury at the *common law*; the principal reason of which resolution, he says, as he apprehended, was, that inasmuch as the chief end of the institution of the office of these justices was for the preservation of the peace against personal wrongs and open violence, and the word *trespass*, (in the com- **Power of justices of the peace therein.**)

mission,) in its most proper and natural sense, is taken for such kind of injuries, it shall be understood in that sense only, or, at most, to extend to such other offences only as have a direct and immediate tendency to cause such breaches of the peace: as, libels and such like, which, on this account, have been adjudged indictable before justices of the peace. 2 *Hawk. c. 8, s. 38.*

And in the case of *R. v. Bainton*, 2 *Str.* 1088, an indictment at the quarter sessions for perjury at the common law was quashed for want of jurisdiction; and was said to have been done so about three years before, in the case of *R. and Westiness. Et vide Reg. v. Yarrington*, 1 *Salk.* 406.

And an indictment found at the quarter sessions for perjury at common law is void, the sessions having no jurisdiction over the offence; and if an indictment so found is removed by *certiorari*, and the case comes down for trial at nisi prius, the judge will not try it. *R. v. Haynes, R. & M., N. P. C.* 298.

Justices of the peace have jurisdiction over perjury created by the 5 *Eliz., ante*, 67, 68.

Process.

23 Geo. 2, c. 11.

Judges may direct prosecution for perjury.

Though there does not seem to be any difference in the power of magistrates and judges to issue their warrants in cases of misdemeanor, and they have therefore a power so to do in perjury, as well as in other cases, yet in the practice of the London police-offices, no warrant is usually granted to apprehend a party accused of this offence, before an indictment has been found against him. But by stat. 23 Geo. II. c. 11, s. 3, the judge of assize (sitting the court, or within twenty-four hours after,) may direct any witness, if there shall appear to him a reasonable cause, to be prosecuted for perjury; and may assign the party injured, or other person undertaking such prosecution, counsel, who are to do their duty *gratis*: and such prosecution, so directed, shall be carried on without any duty or fees whatsoever. And the clerk of assize, or other proper officer of the court, shall give *gratis*, to the party injured or prosecutor, a certificate of the same being directed, together with the names of the counsel assigned him; which certificate shall be sufficient proof of such prosecution being directed: provided that no such direction or certificate shall be given in evidence on the trial.

VI. Forms, List of (e).

COMMITMENT for Perjury, (No. 1.)

INDICTMENT for Perjury in an affidavit to *hold to bail* made before a judge in King's Bench, (No. 2.) The like where the Affidavit was sworn before the Filacer for Middlesex, in Common Pleas, (No. 3.) The like where the Affidavit was sworn before a Commissioner of King's Bench, (No. 4.)

INDICTMENT for Perjury in *justifying bail* in Court of King's Bench, (No. 5.)

INDICTMENT for Perjury by a Witness on a *trial* in King's Bench, at Westminster, at the sittings in term, (No. 6.) The like for Perjury on a Trial at the *Assizes*, (No. 7.)

INDICTMENT for Perjury in an Affidavit sworn in open court, in opposition to a *rule to show cause* why a regular judgment should not be set aside, (No. 8.)

INDICTMENT for Perjury in an Answer sworn before a Master in Chancery, (No. 9.)

INDICTMENT for perjury by a *Bankrupt* on his Examination before the Commissioners, (No. 10.) See *Bankrupt*, Vol. I.

INDICTMENT for Perjury by an *Insolvent*, on his Examination before the Insolvent Court, on the hearing of his petition, (No. 11.) See *Insolvent*, Vol. III.

INDICTMENT for Perjury in a Cause in the *Ecclesiastical Court*, for defamation, (No. 12.)

INDICTMENT for Perjury upon a *Complaint* before a *Magistrate*, (No. 13.)

INDICTMENT for Perjury in giving Evidence on Trial, at Westminster, of an issue on an indictment for perjury, (No. 14.)

COMMITMENT for *Subornation* of Perjury, (No. 15.)

INDICTMENT for a like offence, (No. 16.)

(e) It would be extending this work too far to insert a collection of all the forms applicable to so extensive an offence as perjury. Only those forms which may be most generally useful are given. See a full collection in 2 *Chit. C. L.*

Forms.

(No. 1.)

Kent. [The county wherein the commitment is made.] *J. P., Esq., one of his majesty's justices of the peace for the said county, to the said constable of* , in the said county, and to the keeper of the common gaol at , in the said county.

Commitment for perjury.

These are to command you, the said constable, in his majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said common gaol, the body of *C. D.*, charged this day, before me, the said justice, on the oath of *A. B.*, of , and others, for that the said *C. D.*, [state the offence thus:] on, &c. at, &c., in the said county, falsely, wickedly, wilfully, and corruptly, did commit wilful and corrupt perjury [in an affidavit to hold to bail then and there made by him the said *A. B.*;" or, "in the testimony which he gave upon oath, as a witness at the trial of a certain cause between *C. D.* and *E. F.*, at the assizes for the county of *York*, then and there holden;" or, "in the testimony he gave upon oath, in his examination before *J. P., Esq., one of his majesty's justices of the peace, upon a certain complaint,*" or, "information then and there preferred by one *C. D.*"] [If the perjury be on a statute, add, against the form of the statute in such case made and provided.] And you, the said keeper, are hereby required to receive the said *C. D.* into your custody, in the same common gaol, and him there safely to keep, until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal, the day of , in the year of our Lord

J. P.

(No. 2.)

The jurors for our lord the king upon their oath present, that *C. D.*, late of, &c., wickedly and maliciously contriving and intending unjustly to aggrieve one *A. B.*, and to put him to great expense, and also unjustly and maliciously to cause him to be arrested for the sum of 100*l.* by virtue of a certain writ of our lord the king, called a [latitas], to be sued out and prosecuted at the suit of the said *C. D.*, out of the said court of our said lord the king, before the king himself, on, &c. at [London aforesaid, at the parish of *St. Dunstan in the West*, in the ward of *Farringdon Without*], came in his proper person, before *Sir R. B., Knight*, then being one of the justices of the court of our lord the king, before the king himself, and then and there produced a certain affidavit in writing of the said *C. D.*, and then and there before the said *Sir R. B., Knight*, in due form of law was sworn, and took his corporal oath upon the Holy Gospel of God, concerning the truth of the matters contained in the said affidavit, (he the said *R. B., Knight*, then and there having a lawful and competent power and authority to administer the said oath to the said *C. D.*, in that behalf;) and that the said *C. D.*, being so sworn as aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, then and there, upon his oath aforesaid, before the said *Sir R. B., Knight*, (the said *A. B., Knight*, then and there having a lawful and competent power and authority to administer the said oath to the said *C. D.* in that behalf) falsely, corruptly, knowingly, wilfully, and maliciously, in and by his said affidavit in writing, did depose and swear, in substance and to the effect following, that is to say, that the said *A. B.*, (meaning the said *A. B.* above mentioned) was then justly and truly indebted unto him the said *C. D.* in the sum of [100*l.*] for [money lent and advanced [as in the affidavit] by the said *C. D.* to the said *A. B.*, and at his (meaning the said *A. B.*) request;] as in and by the said affidavit of the said *A. B.* will more fully and at large appear. Whereas in truth and in fact the said *A. B.*, at the time the said *C. D.* took his said oath and made his affidavit aforesaid, was not indebted to him the said *C. D.* in the sum of [100*l.*] for [money lent and advanced by the said *C. D.* to the said *A. B.*]; and whereas in truth and in fact the said *A. B.* was not then indebted to the said *C. D.* in the sum of [100*l.*] on any account whatsoever. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said

Indictment for perjury in an affidavit to hold to bail made before a judge.

Conclusion.

C. D., on, &c., aforesaid, at, &c., aforesaid, before the said *Sir R. B., Knight*, (he the said *Sir R. B., Knight*, then and there having such power and authority as aforesaid,) by his own act and consent, and of his own most wicked and corrupt mind, in manner and form aforesaid, falsely, wickedly, wilfully, and corruptly did commit wilful and corrupt perjury; to the great displeasure of Almighty God, in contempt of our lord the king and his laws, to the great damage of the said *A. B.*, to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity.

FORMS.

Conclusion.

aforesaid, falsely, maliciously, wilfully, wickedly, and corruptly, and by his own proper act and consent, depose, swear, and give evidence, amongst other things, to the jurors of the said jury so sworn between the said parties as aforesaid, in substance and to the effect as follows: that is to say, that the said C. D. and E. F. both struck the said A. B. on the 14th January, A. D. 1830.] Whereas, in truth and in fact, [the said C. D. and E. F. did not, nor did either of them, ever strike the said A. B. on the 14th January, A. D. 1830, or at any other time.] And so the jurors aforesaid, upon their oath aforesaid, do say, that the said G. H., at and upon the said trial of the said issue, and on the said, &c. aforesaid, at the parish of St. Margaret, within the liberty aforesaid, in the county aforesaid, before the said Charles Lord Tenterden, the chief justice aforesaid, so as aforesaid having sufficient power and authority to administer the said oath to the said G. H. in that behalf, by his own proper act and consent, and of his own most wicked and corrupt mind, in manner and form aforesaid, did falsely, wickedly, and corruptly, upon his oath aforesaid, commit wilful and corrupt perjury, in contempt of our said lord the king and his laws, to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity.

(No. 6.)

Indictment for perjury upon a trial at the assizes.

— The jurors for our lord the king upon their oath present, that heretofore, to wit, at the assizes holden for the county of _____, on, &c. at _____, in the said county, before Sir A. B., Knight, one of the justices of our said lord the king, assigned to hold pleas in the court of our lord the king, before the king himself, and Sir J. B., Knight, one of the justices of our said lord the king, of the bench at Westminster, justices of our said lord the king, assigned to take the assizes in and for the said county of _____, a certain issue between one E. F. and one G. H., in a certain plea of [trespass on the case], wherein the said E. F. was plaintiff, and the said C. D. defendant, came on to be tried in due form of law, and was then and there tried by a jury of the said county in that behalf duly sworn and taken between the parties aforesaid: upon which said trial C. D., late of, &c. then and there appeared as a witness for and on behalf of the said C. D., the defendant in the plea aforesaid, and was then and there at the said assizes duly sworn and took his corporal oath upon the Holy Gospel of God, before the said Sir A. B., Knight, so being such justice as aforesaid, that the evidence which he the said C. D. should give to the court there, and to the said jury so sworn as aforesaid, touching the matter then in question between the said parties, should be the truth, the whole truth, and nothing but the truth, (he, the said Sir A. B., Knight, so being such justice as aforesaid, then and there having sufficient and competent authority to administer the said oath to the said C. D. in that behalf.) And the jurors aforesaid, upon their oath aforesaid, do further present, that at and upon the trial of the said issue so joined between the said parties as aforesaid, it then and there became and was a material question to ascertain the truth of the matters hereafter stated to have been sworn and deposed to by the said C. D. And the jurors first aforesaid, upon their oath aforesaid, do further present, that the said C. D., being so sworn as aforesaid, not having the fear of God before his eyes, nor regarding the laws of this realm, but being moved and seduced by the instigation of the devil, and contriving and intending to pervert the due course of law and justice, and unjustly to aggrieve the said E. F., the plaintiff in the said issue, and to deprive him of the benefit of his suit then in question, and to subject him to the payment of sundry heavy costs, charges, and expenses, then and there on the trial of the said issue, upon his oath aforesaid, falsely, corruptly, knowingly, wilfully, and maliciously, before the said jurors so sworn as aforesaid, and before the said Sir A. B., Knight, so being such justice as aforesaid, did depose and swear, in substance and to the effect following, that is to say, that [here set out the perjured matter sworn to, with the necessary innuendoes:] whereas in truth and in fact, &c. [assign the perjury as usual]. And so the jurors aforesaid, upon their oath aforesaid, do say, &c. [Conclude as in form, No. 5, supra.]

(No. 7.)

Indictment for perjury in affidavit sworn in court in opposition to a rule to show cause why a judgment should not be set aside.(k)

— The jurors for our lord the king, upon their oath present, that before the making of the affidavit hereinafter mentioned, the goods and chattels of one C. D. had been levied and taken by the sheriff of the county of M., upon and by virtue of a certain writ of our said lord the king, called a fieri facias, before then sued and prosecuted out of the court of our said lord the king, [of the bench] at W., in the county of

(k) See form, 2 Chit. C. L. 374.

M., upon and by virtue of a certain judgment before then obtained in the said court, in a certain action at the suit of A. B. against him the said C. D., in the said court. And thereupon, afterwards, on, &c. [date the rule nisi] in [Michaelmas] Term, in the [1st] year of the reign of our said lord the king, at, &c. (venue) by a certain rule and order of the said court then and there made, it was ordered [here set out the rule, which may be thus:] that the said A. B., upon notice of the said rule, to be given to his attorney or agent, should show cause to the said court on, then next, why the judgment signed in the said cause, and the proceedings had thereon, should not be set aside, and that the sheriff of the said county of M. should retain in his hands the money levied by him under the said writ of execution issued in the said cause, until the further order of the said court.] And the jurors aforesaid, on their oath aforesaid, do further present, that E. F., late of, &c. contriving and maliciously intending to aggrive and injure the said A. B., and to prevent him from obtaining a rule of the said court of our said lord the king, [of the bench aforesaid,] in the said cause, for the setting aside the said judgment, and to discharge the said rule so obtained as aforesaid, and to impede and stop the course of public justice, heretofore, to wit, on, &c. [date of making the false affidavit] contriving and intending as aforesaid, did come in his the said E. F.'s own proper person into the said court of our said lord the king, [of the bench aforesaid,] at Westminster aforesaid, in the county aforesaid, and did then and there produce to the said court a certain affidavit in writing of the said E. F., to be exhibited to the said court, for the purpose of discharging the said rule so made and obtained as aforesaid; and the said E. F. was then and there before the same court duly sworn, and did take his corporal oath upon the Holy Gospel of God, concerning the truth of the matters contained in the said affidavit, (the same court then and there having a lawful and competent authority to administer the said oath to the said E. F., and to take and receive the said affidavit of the said E. F. in that behalf,) and that the said E. F., being so sworn as aforesaid, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, did then and there, to wit, on the day and year last aforesaid, at Westminster aforesaid, in the county aforesaid, in and by his affidavit aforesaid, and by his oath aforesaid, before the said court, the said court then and there having such authority to administer the said oath as aforesaid, and to take and receive the said affidavit as aforesaid, falsely, corruptly, knowingly, wilfully, and maliciously did depose and swear, in substance and effect as follows, that is to say, [set out the matter sworn to falsely, with innuendos, or else merely state the substance.] And the jurors aforesaid, on their oath aforesaid, do further say, that on the occasion of the said E. F. so swearing and deposing as aforesaid, it there became and was material to ascertain the truth of the matters so sworn and deposed to by him as aforesaid. And so the jurors aforesaid, upon their oath aforesaid, do say, &c. [Conclude as usual, as in form, No. 5, ante, 73.]

Averment of materiality.

(No. 8.)

The jurors for our lord the king upon their oath present, that A. B., late of, &c. heretofore, to wit, on, &c. at, &c. did exhibit his certain bill of complaint in writing, against E. F., in the High Court of Chancery of our said lord the king, (the same court then being held at W., in the said county of M.) which said bill was directed to the Right Hon. S. C., Baron of L., in the county palatine of Durham, then High Chancellor of Great Britain; and the said A. B., in and by his said bill of complaint, amongst other things, stated and alleged in substance and to the effect following, (that is to say) that, &c. [Here set out the matter of the bill to which the false part of the answer has any reference] as in and by the said bill of complaint of the said A. B., amongst other things, will more fully appear. And the jurors aforesaid, on their oath aforesaid, do further present, that the said E. F. afterwards, that is to say, on, &c. at the parish of [St. Andrew, Holborn,] in the county of [Middlesex,] did come in his own proper person before G. H., Esq., then and there being one of the masters of the said Court of Chancery, and then and there did produce and exhibit to the said G. H. the answer in writing of the said E. F. to the said bill of complaint of the said A. B., and the said E. F. was then and there in due manner sworn, and did take his corporal oath upon the Holy Gospel of God, touching and concerning the matters contained in his said answer before the said G. H., (he, the said G. H. so then being such master as aforesaid, and then and there having sufficient and competent power and authority to administer an oath to the said E. F. in that behalf;) and that the said E. F., being so sworn as aforesaid, did, upon his corporal oath concerning the matters contained in the said answer before the said G. H., Esq.,

Indictment for perjury in an answer sworn before a master in chancery (i).

FORMS.

then, as aforesaid, being one of the said masters of the said Court of Chancery, then and there swear, that so much of the said answer of the said E. F., so as aforesaid exhibited and produced, as related to his own acts and deeds, was true. And that the said E. F., being so sworn as aforesaid, and not having the fear of God before his eyes, but intending to aggrieve the said A. B., in and by the said answer before the said G. H., Esq., then and there being one of the said masters of the said Court of Chancery as aforesaid, and having such sufficient and competent authority as aforesaid, falsely, knowingly, wilfully, wickedly, maliciously, and corruptly, by his own act and consent, upon his oath aforesaid, did answer, swear, and affirm, in substance and effect as follows, that is to say, &c. [Here set out the substance of the perjured part of the answer.] As by the said answer of the said E. F., still remaining in the said Court of Chancery aforesaid, at Westminster aforesaid, in the county aforesaid, amongst other things, will more fully appear. Whereas in truth and in fact, [Assign the perjury as usual, according to the answer; then add the usual averment of materiality, as ante, (No. 7.) and conclude with the usual conclusion in perjury, from the words, "And so," &c., as ante, 71, No. 2.]

(No. 9.)

Indictment for perjury in a cause in the ecclesiastical court (m).

— The jurors for our lord the king upon their oath present, that, to wit, on, &c. at, &c. heretofore, C. D., late of, &c. not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and contriving and maliciously intending to injure one A. B., came in his own proper person, before E. F., then surrogate of the dean and chapter of R., and did then and there, that is to say, on the day and year aforesaid, at, &c. (venue), as a witness in a certain suit, to wit, a suit of defamation then depending in the episcopal court of K., between the said A. B. against G. H., take his corporal oath upon the Holy Gospel of God, before the said E. F. (the said E. F. then and there having full power and authority to administer an oath to the said C. D. in that behalf), and then and there, to wit, on the day and year aforesaid, at, &c. (venue), aforesaid, by his own act and consent, upon his said oath before the said E. F. (the said E. F. then and there having such power and authority to administer the said oath to the said E. F., as aforesaid), falsely, wilfully, maliciously, and corruptly did say, depose, swear, and make deposition in writing, in substance and effect as follows, that is to say, that, &c. [Here state the substance of the matter sworn, with proper inuendos,] as by the said deposition, (reference being thereto had,) will, amongst other things, fully appear. Whereas, in truth and in fact, &c. [assign the perjury.] And so the aforesaid jurors, on their aforesaid oath, do say, that the aforesaid C. D., on the said, &c. at, &c. aforesaid, before the aforesaid E. F., (then and there having full power and authority to administer the aforesaid oath to the said C. D. in the respect aforesaid,) by and through his own act and consent, in manner and form aforesaid, upon his aforesaid oath, did falsely, maliciously, wilfully, and corruptly commit wilful and corrupt perjury, to the great displeasure of Almighty God, in contempt of the laws of this realm, to the evil example of all others, to the great damage of the aforesaid A. B., and against the peace of our said lord the king, his crown, and dignity.

(No. 10.)

Indictment for perjury, upon a complaint before a magistrate (n).

— The jurors for our lord the king upon their oath present, that C. D., late of the parish of B., in the county of _____, wickedly and maliciously contriving and intending unjustly to aggrieve one J. J., and him, the said J. J., to subject to the punishments, pains, and penalties by the laws of this realm provided for persons guilty of felony and larceny, on the _____ day of _____, in the _____ year of the reign of our sovereign lord William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, at, &c., came in his own proper person before J. P., Esquire, then and yet being one of the justices of our said lord the king, assigned to keep the peace of our said lord the king, in and for the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county, and then and there before the said J. P., Esq., in due form of law was sworn and took his corporal oath upon the Holy Gospel of God (he the said J. P. then and there having a lawful and competent power and authority to administer the said oath to the said J. J. in that behalf): and that the said J. J. being so sworn as aforesaid, not having the fear of God before his

(m) See other forms, 2 Chit. C. L. 421.

(n) See form, Arch. Forms, Crim. Pl.

367. See various forms, 2 Chit. C.

L. 431.

cyrs, but being moved and seduced by the instigation of the devil, then and there, upon his oath aforesaid, before the said J. P., Esq., (the said J. P. then and there having a lawful and competent power and authority to administer the said oath to the said J. J. in that behalf, as aforesaid), upon a certain information, then and there made before the said J. P., falsely, corruptly, knowingly, wilfully, and maliciously, did say, depose, swear, and give information in writing (amongst other things), in substance and to the effect following, that is to say, this informant (meaning the said J. J.), upon his oath, saith, [so proceeding to set out the defendant's information upon oath before J. P., with the necessary innuendos; and then assign the perjury;] whereas in truth and in fact, &c. [as usual, &c.; then conclude] And so the jurors aforesaid, upon their oath aforesaid, do say, &c., as ante, p. 71, No. 2.]

(No. 11.)

Middlesex, to wit. The jurors for our lord the king upon their oath present, that at the sitting at nisi prius, holden after [Michaelmas] term, in the [1st] year of the reign, &c. at Westminster, in and for the county of Middlesex, in the great hall of pleas there, called Westminster Hall, according to the form of the statute in such case made and provided, before [the Right Hon. Charles Lord Tenterden], then [and now] chief justice of our said lord the king, assigned to hold pleas in the court of our said lord the king, before the king himself, a certain issue in due manner joined in the said court of our said lord the king, before the king himself, between our said lord the king and one C. D., upon a certain indictment then depending against him, the said C. D., for wilful and corrupt perjury, came on to be tried, and was then and there, in due form of law, tried by a certain jury of the country, in due manner sworn and taken for that purpose, and that at and upon the trial of the said issue, one E. F., late of, &c. did then and there, to wit, on the said, &c. at, &c. in the great hall of pleas there, appear and was produced as a witness for and on the behalf of our said lord the king, against the said C. D., upon the trial of the said issue, and the said E. F. was then and there duly sworn, and did then and there take his corporal oath upon the Holy Gospel of God, as such witness as aforesaid, before the said [Charles Lord Tenterden], the chief justice aforesaid, that the evidence which he, the said E. F., should give to the court and jury sworn between our said lord the king and the said C. D. should be the truth, the whole truth, and nothing but the truth (the said [Charles Lord Tenterden], the chief justice aforesaid, then and there having competent authority to administer the said oath to the said E. F. in that behalf); and the said E. F. being so sworn as aforesaid, it then and there, upon the trial of the said issue, became and was material to ascertain the truth of the matters hereafter alleged to have been sworn and deposed to by the said E. F. And the jurors aforesaid, upon their oath aforesaid, do further present, that the said E. F., not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and minding and corruptly and maliciously intending to injure and aggrieve the said C. D., and to cause and procure him to be convicted of the wilful and corrupt perjury whereof he then stood indicted as aforesaid, and to subject him to the pains and penalties by the laws of this realm inflicted on persons guilty of that crime, then and there, to wit, on the trial of the said issue, at the said sitting of nisi prius so holden as aforesaid, upon his oath aforesaid, before the said [Charles Lord T.], the chief justice aforesaid, then and there having such competent authority to administer the said oath as aforesaid, falsely, wickedly, maliciously, knowingly, wilfully, and corruptly did say, depose, swear, and give evidence, amongst other things, in substance and to the effect following, that is to say, that, &c. [Here set out the substance of the false evidence] whereas in truth and in fact, &c. [Here assign the perjury.] And so the jurors aforesaid, on their oath aforesaid, do say, that the said E. F. then and there, to wit, at the said sitting of nisi prius holden as aforesaid, on, &c., at Westminster aforesaid, in the great hall of pleas there, called Westminster Hall, at and upon the trial of the said issue, in open court, upon his oath aforesaid, before the said [Charles Lord T.], the chief justice aforesaid, then and there having such competent power to administer the said oath as aforesaid, in manner and form aforesaid, falsely, &c. [And conclude as usual, ante, p. 71, form No. 2.]

Indictment for perjury in giving evidence on trial at Westminster Hall, of an issue on an indictment for perjury. (e)

(No. 12.)

Commencement as usual, ante, 71, form No. 1.] —, on, &c. at, &c. unlawfully, corruptly, wickedly, and maliciously, did solicit, suborn, and instigate one A. B. to commit wilful and corrupt perjury, in the testimony given by the said C. D. as a witness, &c. [as in the form, ante, p. 71, No. 1.] And you, the said keeper, &c. [And conclude as usual, ante, p. 71, form No. 1.]

Commitment for subornation of perjury.

FORMS.

(No. 13.)

Indictment for
subornation of
perjury.

Middlesex. The jurors for our lord the king upon their oath present, that C. D., late of _____, wickedly and maliciously combining and intending to injure one A. B., then being in the custody of the Marshal of the Marshalsea of our said lord the king, before the king himself, at the suit of one _____, and to cause the said A. B. to be kept and detained in custody of the said marshal as a prisoner, by and at the suit of the said C. D., for a large sum of money, to wit, the sum of [£35], by filing a bill against him, the said A. B., as a prisoner, in such custody as aforesaid, according to the course and practice of the said court of our said lord the king, before the king himself, on the [29th] day of [June], in the [1st] year of the reign of our Sovereign Lord [William the Fourth], by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, at Westminster, in the county of Middlesex, did falsely, corruptly, knowingly, wilfully, and wickedly, solicit, suborn, and procure one H. G. to go into the court of our said lord the king, before the king himself, the said court then and still being holden at Westminster, in the county aforesaid, and to produce to the said court a certain affidavit in writing of the said H. G., to be exhibited to the said court, for the purpose last aforesaid, and in and by the said affidavit falsely to swear and depose, to and before the said court, that the said A. B. was justly and truly indebted unto the said C. D. in the sum of [£35 and upwards, on a bill of exchange drawn by the said A. B., upon and accepted by one P. G., and payable to the order of the said A. B., at a certain day then past, and by the said A. B. indorsed to one J. S., and by the said J. S. indorsed to the said C. D.] And the jurors aforesaid, upon their oath aforesaid, do further present, that in consequence and by the means, encouragement, and effect of the said wicked and corrupt subornation and procurement of the said C. D., he, the said H. G., afterwards, to wit, on the said [29th] day of [June], in the year aforesaid, did go in his proper person into the said court of our said lord the king, before the king himself, the said court then and still being holden at Westminster, in the county of Middlesex, aforesaid, and did then and there produce to the said court the said affidavit in writing of the said H. G., to be exhibited to the said court, for the purpose aforesaid; and the said H. G. then and there was sworn, and took his corporal oath, before the said court, on the Holy Gospel of God, the said court then and there having a lawful and competent authority to take and receive the said affidavit and administer the said oath to the said H. G. in that behalf; and the said H. G., being so sworn as aforesaid, by the means and in consequence of the said wicked solicitation, subornation, and procurement of the said C. D., for the purpose aforesaid, did then and there, upon his oath aforesaid, before the said court as aforesaid, falsely, wickedly, wilfully, and corruptly, depose and swear in and by the said affidavit in writing, in substance and to the effect following, that is to say, that the said A. B. then was justly and truly indebted unto the said C. D. in the sum of [£35 and upwards, on a bill of exchange, drawn by the said A. B. upon and accepted by one B. G., and payable to the order of the said A. B., at a certain day then past, and by the said A. B. indorsed to one J. S., and by the said J. S. indorsed to the said C. D.;] whereas in truth and in fact the said A. B. was not, at the time of the making the said affidavit, by the said H. G., as aforesaid, indebted to the said C. D. in the sum of £35 and upwards, in the said affidavit mentioned, on the said bill of exchange drawn by the said A. B., upon and accepted by one B. G., and indorsed to the said J. S., and by him indorsed to the said C. D., or on any other bill of exchange whatever. And whereas, in truth and in fact, the said A. B. was not, at the time of making the affidavit as aforesaid, or at any other time, indebted to the said C. D., in the said sum of £35 on any account whatever; and whereas, in truth and in fact, he, the said A. B., did not, at the time of making of the affidavit as aforesaid, owe to the said C. D. the said sum of £35, or any part thereof, or any other sum of money whatsoever, which he, the said C. D., at the time of soliciting, suborning, and procuring the said H. G. wilfully, corruptly, and falsely to swear, as aforesaid, well knew, to wit, at Westminster aforesaid, in the county aforesaid. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said C. D., on the said 29th day of June aforesaid, at Westminster aforesaid, in the county aforesaid, did falsely, corruptly, knowingly, wilfully, and wickedly, suborn and procure the said H. G. to commit wilful and corrupt perjury, in and by his oath aforesaid, taken in the open court of our said lord the king, before the king himself, the same court then and there having lawful and competent authority to administer such oath to the said H. G. in that behalf, to the great displeasure of Almighty God, in contempt of our said lord the king and his laws, to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity.

Perry. See **Excise**, Vol. II.

Petition.

[13 C. II. c. 5.]

By the 13 Car. II. c. 5, no person shall solicit above twenty hands to any petition to the king, or either house of Parliament, for alteration of matters established by law in church or state, unless the matter thereof hath been consented to by three or more justices of the county, or by the major part of the grand jury at the assizes or sessions; or, if arising in London, by the lord mayor, aldermen, and common council; nor shall present any such petition, accompanied with more than ten persons, on pain of a sum not exceeding 100*l.* and three months' imprisonment, on conviction at the assizes or sessions in six months, and proved by two witnesses.

Tumultuous petitioning.

But this shall not extend to debar any persons (not above ten in number,) to present any complaint to any member of Parliament after his election, and during the continuance of Parliament, or to the king, for any remedy to be thereupon had; nor to any address to the king by the Parliament. See 4 *Blac. Com.* 147; **Riot**, *post*.

Petit Jury. See **Jurors**. Vol. III.

Petit Larceny. See **Larceny**. Vol. II.

Petit Treason. See **Treason**, *post*.

Pewter, and other Metals.

DURING the reigns of Henry VII. and VIII., and Edward VI., five different statutes (19 Hen. VII. c. 6; 4 Hen. VIII. c. 7; 25 Hen. VIII. c. 9; 33 Hen. VIII. c. 4; 2 & 3 Edw. VI. c. 37) were passed for the purpose of preventing as well the importation of manufactured goods of tin or pewter, as the exportation of any brass, copper, or other metals (tin and pewter only excepted), in an unmanufactured state; as also to prevent any goods being manufactured within this kingdom of tin, pewter, or brass, of inferior quality to what they ought to be, on pain of forfeiting half to the king, and half to the finder. 2 *Dick.* 419.

By the 19 Hen. VII. c. 6, the master and wardens of the craft of Pewterers, and, where there are none such, the head and governors of the city or borough, might appoint searchers; and the justices at Michaelmas sessions were to appoint two persons, having experience therein, to search within the county; and of all such unlawful pewter or brass as they should find, half went to the king, and half to the searchers.

In default of the master and wardens not searching, any person, having sufficient knowledge in the said occupation, by oversight of the mayor or other head officer of the cities or boroughs, might search. *Id.*

But now, by the 3 Geo. IV, c. 41, s. 2, 4, these several statutes are repealed.

Personating

Of Soldiers, &c., see **Military Law**, Vol. III. Of Seamen, &c., *post*, **Seamen**. Of Bail, see **Bail**, Vol. I. See also **Thefts**, Vol. I. **Forgery**, Vol. II.

Pheasants. See *Game*, Vol. II.

Physicians, Surgeons, and Apothecaries.

[5 Hen. VIII. c. 6; 32 ib. c. 40; 1 Mar. Sess. 2, c. 9; 3 Jac. I. c. 5; 6 & 7 Wil. III. c. 4; 18 Geo. II. c. 15; 55 Geo. III. c. 194; 6 Geo. IV. c. 50, 153.]

AS to the opinions of medical men being evidence, see *Evidence*, Vol. II. p. 35.

As to what communications are privileged from being disclosed in evidence, see *Evidence*, Vol. I.

Recusants not to practise physic.

By the 3 Jac. I. c. 5, s. 8, no recusant convict shall practise physic, nor use the trade of an apothecary, on pain of £100.

Apothecaries and surgeons exempted from offices.

By the 6 & 7 Wil. III. c. 4, s. 2, apothecaries within London and seven miles thereof, and also apothecaries in any other place, who have served seven years' apprenticeship, shall be exempted from the office of constable, scavenger, overseer of the poor, and all other parish, ward, and leet offices.

See also, as to surgeons and apothecaries being exempt from juries, the 6 Geo. IV. c. 50, s. 2, *ante*, *Jurors*, Vol. III., which repeals the 6 & 7 Wil. III. c. 4, and 5 Hen. VIII. c. 6, as to jurors.

By the 5 Hen. VIII. c. 6, surgeons shall be discharged of the constableness, watch, and all manner of office bearing any armour.

And, by the 18 Geo. II. c. 15, s. 10, all freemen of the Surgeons' Company in London shall be exempted from the office of constable, scavenger, overseer of the poor, and other parish, ward, and leet offices, and from serving on juries and inquests.

Mr. Hawkins, speaking of the former of these statutes, says, it seems by the equity thereof, and the ancient custom of the realm, all surgeons have been allowed the like privilege: that is, whether in London or elsewhere. 2 *Hawk.* c. 10, s. 43.

Whether physicians are exempted from offices.

By the 32 Hen. VIII. c. 40, s. 1, the president of the commonalty and fellowship of the faculty of physic in London, and the commons and fellows of the same, shall be discharged of watch and ward there, and shall not be chosen constable or any other officer.

Yet it seems to have been holden, that the equity of this act doth not extend to other physicians not mentioned in it; perhaps for this reason, because physicians have no such special custom for their discharge as surgeons are said to have. 2 *Hawk.* c. 10, s. 44.

And it seemeth that a practising physician, being chosen constable in pursuance of a custom in respect of his lands in a town, has no remedy for his discharge; for that there are no precedents of this kind, and his calling is private: yet, if he be chosen constable of a town, which hath sufficient persons besides to execute this office, and no special custom concerning it, perhaps he may be relieved by the King's Bench. 2 *Hawk.* c. 10, s. 41.

By the 6 Geo. IV. c. 50, s. 2, members and licentiates of the College of Physicians, in London, are exempt from serving on juries. See *Jurors*, Vol. III.

Suing for fees.

It is clear that a physician cannot maintain an action for his fees; for, like those of a barrister, the fee is a *quiddam honorarium*. *Chorley v. Bolcot*, 4 T. R. 317. (r)

As to surgeons' and apothecaries' right to sue, see *post*, 82, 83, *notes*.

(r) As to evidence of being physician, see *Evidence*, Vol. II. p. 49.

If a physician give a person a potion, without any intent of doing him any bodily hurt, but with intent to cure or prevent a disease, and, contrary to the expectation of the physician, it kills him, this is no homicide; and the like of a surgeon. "And I hold their opinion," says *Lord Hale*, 1 *Hale*, 429, "to be erroneous that think, if he be no licensed surgeon or physician that occasioned this mischance, that then it is felony: for physic and salves were before licensed physicians and surgeons; and, therefore, if they be not licensed according to the 3 Hen. VIII. c. 11, or the 14 & 15 Hen. VIII. c. 5, they are subject to the penalties in the statutes; but God forbid that any mischance of this kind should make any person not licensed guilty of murder or manslaughter." These opinions, therefore, may serve to caution ignorant people not to be too busy in this kind in tampering with physic, but are no safe rule for a judge or jury to go by. See, further, *Homicide*, Vol. III.

Physician killing a patient.

The 55 Geo. III. c. 194, "for better regulating the practice of Apothecaries throughout England and Wales," s. 1, recites the first charter of James I. to the Apothecaries' Company, and that some of the clauses and provisions contained in the said charter, so far as the same regard the said society of Apothecaries, have been found inadequate for the purposes thereby intended; and enacts, that the said charter of James I., and all the powers, penalties, regulations, &c., therein contained (except such parts thereof as are hereby altered, varied, or repealed), shall be, and the same is, hereby declared to be in full force, &c.

55 Geo. 3, c. 194. Charter by Jac. I to the Apothecaries' Company.

Charter confirmed, except as altered by this act.

By sect. 2, so much of recited charter as directs the master and wardens, &c., to enter the shops of apothecaries, and to examine their medicines, &c., and to impose penalties, is repealed.

Sect. 3. And, in lieu thereof, the master, wardens, and society, of apothecaries, and their successors, or any of the assistants, or persons properly qualified [viz. s. 4, for London and 30 miles around, being a member of the Society of Apothecaries of at least 10 years' standing, and all other parts of England and Wales, an apothecary in actual practice for at least ten years], to be by the master and wardens nominated, not being fewer in number than two persons, may at all seasonable times, in the day-time, as often as to the said master and wardens it shall seem expedient, enter into any shop of any apothecary in England and Wales, and search, survey, prove, and determine, if the medicines, simple or compound, wares, drugs, or things whatsoever therein contained, and belonging to the art or mystery of apothecaries, be wholesome, meet, and fit for the cure, health, and ease, of his majesty's subjects; and all such medicines, &c., which they shall find false, unlawful, deceitful, stale, unwholesome, corrupt, pernicious, or hurtful, shall and may burn, or otherwise destroy; and also shall report to the master, wardens, and assistants, of the said society, the name of such person as shall be found to have the same in possession; and the said master, wardens, and assistants, shall and may impose and levy the following fines and penalties upon every person whose names shall be so reported to them, as hereinafter mentioned: for the first offence, £5; for the second offence, £10; and for the third and every other offence, £20.

Master, wardens, &c., empowered to enter shops of apothecaries, &c., and examine drugs, &c.

Penalties.

And, by the 1 Mar. Sess. II. c. 9, s. 6, all justices, mayors, sheriffs, bailiffs, constables, and other officers, in London, shall assist the president of the College of Physicians, and persons by them authorized, in searching for faulty apothecary wares.

Searching for drugs.

By the 55 Geo. III. c. 194, s. 5. And whereas it is the duty of every person, using or exercising the art and mystery of an apothecary, to prepare with exactness and to dispense such medicines as may be directed for the sick by any physician lawfully licensed to practise physic by the president and commonalty of the faculty of physic in London, or by either of the two universities of Oxford or Cambridge; therefore, for the further protection, security, and benefit of his majesty's subjects, and for the better regulation of the practice of physic throughout England and Wales, it is enacted, that if any person using or exercising the art and mystery of an apothecary, shall at any time knowingly, wilfully, and contumaciously, refuse to make, mix, compound, prepare, give, apply, or administer, or any way to sell, set on sale, put forth,

Penalty on apothecaries refusing to compound, or unfaithfully compounding, medicines prescribed.

55 Geo. 3, c. 104.

or put to sale, to any person or persons whatever, any medicines, compound medicines, or medicinale compositions, or shall deliberately or negligently, falsely, unfaithfully, fraudulently, or unduly make, mix, compound, prepare, give, apply, or administer, or any way sell, set on sale, put forth, or put to sale to any person or persons whatever, any medicines, compound medicines, or medicinale compositions, as directed by any prescription, order, or receipt, signed with the initials, in his own handwriting, of any physician so lawfully licensed to practise physic, such person or persons so offending shall, upon complaint made within twenty-one days by such physician, and upon conviction of such offence before any of his majesty's justices of the peace, unless such offender can show some satisfactory reason, excuse, or justification, in this behalf, forfeit, for the first offence, the sum of £5; for the second offence, the sum of £10; and for the third offence he shall forfeit his certificate, and be rendered incapable in future of using or exercising the art and mystery of an apothecary, and be liable to the penalty inflicted by this act upon all who practise as such without a certificate, in the same manner as if such party so convicted had never been furnished with a certificate enabling him to practise as an apothecary; and such offender, so deprived of his certificate, shall be rendered and deemed incapable in future of receiving and holding any fresh certificate, unless the said party so applying for a renewal of his certificate shall faithfully promise and undertake, and give good and sufficient security, that he will not in future be guilty of the like offence.

Persons not to practise as apothecaries, &c., without due examination.

Sect. 14. And, to prevent any person from practising as an apothecary, without being properly qualified to practise as such, it is enacted, that, after the 1st day of August, 1815, it shall not be lawful for any person (except persons already in practice as such) to practise as an apothecary in any part of England or Wales, unless he shall have been examined by the court of examiners, or the major part of them, and have received a certificate of his being duly qualified to practise as such from the said court of examiners, or the major part of them, (a) who are hereby authorized and required to examine all persons applying to them, for the purpose of ascertaining the skill and abilities of such persons in the science and practice of medicine, and their fitness and qualification to practise as an apothecary; and the said court of examiners, or the major part of them, are hereby empowered either to reject such person, or to grant a certificate of such examination, and of his qualification to practise as an apothecary, as aforesaid: provided always that no person shall be admitted to such examination until he shall have attained the full age of 21 years. See the 6 Geo. IV. c. 133, s. 5, *post*, 87.

Applicants for examination to produce testimonials.

Sect. 15 provides and enacts, that no person shall be admitted to any such examination for a certificate to practise as an apothecary, unless he shall have served an apprenticeship of not less than five years to an apothecary, and unless he shall produce testimonials, to the satisfaction of the court of examiners, of a sufficient medical education, and of a good moral conduct.

Penalty for acting without a certificate. (a)

Sect. 20 enacts, that if any person (except such as are then actually practising as such) shall, after the 1st August, 1815, act or practise as an apothecary in any part of England or Wales, without having obtained such certificate, as aforesaid, every person so offending shall, for every such offence, forfeit the sum of £20; and if any person (except such as are then acting as such, and excepting persons who have actually served an apprenticeship, as aforesaid) shall, after the said 1st of August, 1815, act as an assistant to an apothecary to compound and dispense medicines, without having obtained such certificate, as aforesaid, every person so offending shall, for every such offence, forfeit the sum of £5. See the 6 Geo. IV. c. 133, s. 5, *post*, 87. (a)

(a) In an action against a person for practising as an apothecary without a certificate, the proof of the certificate, or the exception as to practising before the 1st of August, 1815, rests on defendant. *Apoth. Comp. v. Bently, R. & M., C.N.P. 159; 1 C. & P. 538, S.C.*

The certificate is not evidence without proof that the seal affixed is the genuine seal of the society. *Chadwick v. Bunney, R. & M., C.N.P. 306; 2 C. & P. 106, S.C.*

Where an apothecary, in an action to recover the amount of his bill, produced

Sect. 21. And no apothecary shall be allowed to recover any charges claimed by him in any court of law, unless he shall prove on the trial that he was in practice as an apothecary prior to or on the 1st of August, 1815, or that he has obtained a certificate to practise as an apothecary from the said master, wardens, and society of apothecaries, as aforesaid. See the 6 Geo. IV. c. 133, s. 5, *post*, 87. (b)

88 Gen. 2, c. 194.

Apothecaries
not to recover
charges, unless
duly licensed.

in evidence a certificate, purporting to be granted by the Court of Examiners of the Apothecaries' Company, and bearing twelve signatures, purporting to be the signatures of the persons constituting that court, of which signatures he proved one, and gave other evidence to show that the document was genuine, and that he obtained it from the Court of Examiners: it was held, that this was sufficient, and that he was not bound to prove the handwriting of each member of the Court of Examiners who had subscribed the certificate. *Walsley v. Abbott*, 3 B. & C. 218; 5 D. & R. 62, S. C.

Practising while under the service of another, though for the party's own benefit, is not a practising within the act. *Brown v. Robinson*, 1 C. & P. 264. And the apothecary should show instances of compounding and making up prescriptions: merely attending local complaints is not sufficient. *Thompson v. Lewis, M. & M.*, C. N. P. 255; 3 C. & P. 483, S. C.

In an action for a libel on the plaintiff, who had served upwards of three years as house apothecary at a public infirmary, before the 55 Geo. III. c. 194, it was held that such service was sufficient to qualify him as an apothecary, without proof of apprenticeship, or production of a certificate, in conformity with the statute. *Wogan v. Somerville*, 1 Moore, 102; 7 Taunt. 401, S. C.

But where it appeared that the defendant, who was sued for the penalty, never had or could have made up physicians' prescriptions prior to the 1st of Aug. 1815, this was held to be cogent evidence to be left to the jury, and that they did right in finding that he had not practised as an apothecary, although he had administered medicines to the patients before that period. 3 B. & A. 40.

Nor is it sufficient, to bring a party within the exception, to show that, previously to and on the 12th of July, 1815 (when the act received the royal assent), he was practising as an apothecary; but he must show that he was so practising on the 1st of August, 1815. *Apoth. Comp. v. Roby*, 5 B. & A. 949.

In an action to recover the amount of an apothecary's bill, the plaintiff who, under this act, proves a certificate from the Society of Apothecaries, need not also prove an apprenticeship served. *Sherwin v. Smith*, 1 Bing. 204; 8 Moore, 30, S. C.

(b) If, in an action on an apothecary's bill, the plaintiff fail to prove himself qualified within the act, he cannot recover even for the vials in which the medicines were supplied. *Steed v. Henley*, 1 C. & P. 574.

In an action by payee of a promissory note, expressed to be "in consideration of the plaintiff's care and medical attendance bestowed on the maker," it was held that the plaintiff, to recover, must bring himself within section 21. *Blogg v. Pinkers, R. & M.*, C. N. P. 125.

A general certificate of qualification to practise, without limitation as to time or place, is sufficient to enable an apothecary to sue for medicines, &c., furnished to patients in London; though the receipt indorsed on the certificate is for four guineas, and paid after the commencement of the action. *Chadwick v. Beuning, R. & M.*, C. N. P. 306.

An apothecary may charge for attendance, or for the medicines he sends, but he cannot charge for both. *Townes v. Lady Gresley*, 3 C. & P. 581. A surgeon may recover for attendance. *Poucher v. Norman*, 3 B. & C. 745.

A member of the Royal College of Surgeons cannot sue for medicines furnished, unless he be also certificated by the Apothecaries' Company. *Allison v. Haydon*, 1 M. & P. 588.

It seems, a surgeon may recover for such medicine as is necessarily furnished in a surgical case. *Id.*

As to who is a surgeon, *id.*

Surgeons and apothecaries must use a due and reasonable degree of skill and diligence. 2 Wils. 359; 8 East, 348. And if the patient be injured in consequence of gross ill-treatment of his case, the apothecary or surgeon guilty of it cannot recover his charges. 3 Stark. C. N. P. 6; 2 Stark. C. N. P. 8. But, if improper remedies are adopted, or unfit medicines are administered, under the advice of a physician, the surgeon or apothecary is, at all events, entitled to be paid. *Peake, Rep.* 59.

If a surgeon furnish a bill, leaving a blank for his charge for attendance, and the patient pay a certain sum on that account, the surgeon, as he made no specific charge, is bound by the sum so paid, and can recover no more. *Inson v. Batting*, 3 Esp. 192: *sed query*.

55 Geo. 3, c. 104.

Application of monies arising from certificates.

Application of monies arising from penalties.

Recovery of fines and penalties.

Distress not unlawful for want of form.

Act not to affect chymists and druggists.

Saving rights.

Limitation of actions.

Sect. 24 enacts, that all sums of money which shall arise from the granting of certificates of examination shall be appropriated and disposed of by the said master, wardens, and society of apothecaries, in such manner as they shall, from time to time, direct and deem most expedient.

Sect. 25. And all sums arising from conviction and recovery of penalties for offences committed against this act, shall be applied and disposed of in manner following: viz. one half to the informer, and one half thereof to the said master, wardens, and society of apothecaries, to be disposed of in such manner as they shall deem most expedient.

Sect. 26 enacts, that all penalties and forfeitures by this act imposed (the manner of levying and recovering whereof is not otherwise directed) shall, if they exceed the sum of £5, be recovered by action, in the name of the master, wardens, and society of apothecaries, of the city of London, in any of his majesty's courts of record in England or Wales, &c.; and, if such penalty or forfeiture shall amount to less than the sum of £5, the same shall be levied and recovered by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of any justice of the peace, acting for any county, city, town, or place where the offence shall be committed (which warrant such justice is hereby empowered and required to grant, upon the confession of the party, or upon the evidence of any credible witness upon oath, and which oath such justice is hereby empowered to administer); and the overplus (if any) of the money arising by such distress and sale shall be returned upon demand to the owner of such goods and chattels, after deducting the costs and charges of making, keeping, and selling the distress; and, in case sufficient distress shall not be found, or such forfeitures and penalties shall not be paid forthwith, it shall be lawful for such justice, and he is hereby authorized and required, by warrant under his hand and seal, to cause the offender to be committed to the common gaol for the county, city, town, or place where the offence shall be committed, there to remain without bail or mainprize for any time not exceeding one calendar month, unless such penalties, and forfeitures, and costs, shall be sooner fully paid and satisfied.

Sect. 27. And where any distress shall be made for any sum of money to be levied by virtue of this act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the notice or information, summons, conviction, warrant, or distress, or other proceeding relating thereto; nor shall the party distraining be deemed a trespasser *ab initio*, on account of any irregularity which shall be afterwards done by the party so distraining; but the person aggrieved by such irregularity may recover full satisfaction for the special damage, in an action upon the case.

Sect. 28 provides, that nothing in this act contained shall extend in any way to affect the trade or business of a chymist and druggist, in the buying, preparing, compounding, dispensing, and vending drugs, medicines, and medicinal compounds, wholesale and retail; but all persons using or exercising the said trade or business, or who shall or may hereafter use or exercise the same, may use, exercise, and carry on the same trade or business, in such manner, and as fully and amply, to all intents and purposes, as the same trade or business was used, exercised, or carried on, by chymists and druggists before the passing of this act.

Sect. 29 provides, that nothing in this act contained shall extend to prejudice or in any wise to interfere with any of the rights, privileges, &c., of the two Universities of Oxford or Cambridge, the royal College of Physicians, the royal College of Surgeons, or the said Society of Apothecaries, except such as shall or may have been altered or amended by this act, or of any person practising as an apothecary previously to the 1st day of August, 1815.

Sect. 30 provides, that no action or suit shall be brought or prosecuted against any person, bodies politic, corporate, or collegiate, for anything done in pursuance of this act, after six calendar months next after the fact committed; or, in case there shall be a continuation of damages, then after six calendar months next after such damage shall have ceased; and every such action shall be laid and brought in the county where the matter in dispute shall arise; and the defendant recovering shall have double costs.

By the 6 Geo. IV. c. 133, it is enacted—"Whereas an act was passed in the fifty-fifth year of the reign of his late majesty King George III., intituled 'An Act for better regulating the Practice of Apothecaries throughout England and Wales:' and whereas doubts have arisen as to some of the provisions of the said act: and whereas by the said act power is given to the master, wardens, and society of the art and mystery of apothecaries of the city of London for the time being, and their successors, or any of the assistants, or any other person or persons properly qualified, as in the said recited act is mentioned, to be by the master and wardens nominated and assigned, not being fewer in number than two persons at the least, to go and enter into any shop or shops of any person or persons whatever, using or exercising the art and mystery of an apothecary in any part of England and Wales, for the purpose of searching, surveying, proving, and determining if the medicines, wares, drugs, or any thing or things whatsoever therein contained, and belonging to the art or mystery of apothecaries aforesaid, be wholesome, meet, and fit for the cure, health, and ease of his majesty's subjects: and whereas there is not any form set forth in or provided by the said recited act, according to which such appointment for the purposes aforesaid should be made, and in consequence thereof in some cases the persons appointed by the said master and wardens to go and enter into the shops of persons using the art and mystery of apothecaries, have met with difficulty in obtaining admission thereto, for the purpose of examining the drugs, wares, and medicines therein contained: and whereas it is expedient that such doubts should be removed, and provision should be made in relation to such appointment as aforesaid: and whereas the said act requires to be amended in other respects, for the more effectually carrying into execution the beneficial purposes thereof: it is enacted, that, from and after the passing of this act, all appointments which shall be made by the master and wardens of the said society of the art and mystery of apothecaries of the city of London, in pursuance of the said recited act, of any persons, to go and enter into the shops of any person or persons using the art and mystery of an apothecary in any part of England and Wales, for the purpose of searching, surveying, and proving whether the medicines, wares, drugs or any thing or things whatsoever in such shop or shops contained, and belonging to the art or mystery of an apothecary, be wholesome, meet, and fit for the cure, health, and ease of his majesty's subjects, shall be in the form hereinafter stated, and shall be sealed with the common seal of the said society of the art and mystery of apothecaries of the city of London, and shall, on being produced to any person or persons at the shop or dwelling-house having a shop therein, of any apothecary in any part of England or Wales, by the persons therein appointed, who in pursuance and by virtue thereof shall require to enter such shop for the purpose of examining the medicines, drugs, wares, and other things therein contained, in pursuance of the said recited act, be deemed to be sufficient evidence of the appointment of the persons in such appointment or appointments named for the purposes therein expressed.

Form of appointment of searching drugs.

"We, A. B., master of the society of the art and mystery of Apothecaries of the city of London, and C. D. and E. F., the wardens thereof, do hereby, in pursuance of the power vested in the master and wardens for the time being of the said society of apothecaries, by an act passed in the fifty-fifth year of the reign of his late majesty King George III., intituled 'An Act for better regulating the Practice of Apothecaries throughout England and Wales;' and, also, in pursuance of an act passed in the sixth year of the reign of his majesty King George IV., intituled 'An Act to explain and amend an act passed in the fifty-fifth year of the reign of his late majesty King George III., intituled, "An Act for better regulating the Practice of Apothecaries throughout England or Wales;"' appoint G. H. and I. K., being persons duly qualified as required by the said recited act passed in the said fifty-fifth year of the reign of his late majesty King George III. as aforesaid, to enter into the shops of such persons as now carry on the art or mystery of an apothecary in _____, and in such other places in England or Wales as they shall think fit, and to examine, search, survey, and prove the medicines, wares, and drugs, and other things in such shops contained, according to the terms, provisions, and powers given and contained in and by the said act of the fifty-fifth of George III. for that purpose. In witness whereof the common seal of the said society is hereunto affixed, this _____ day of _____."

Form of appointment.

6 Geo. 4, c. 123.

Members of court of assistants may be members of court of examiners.

Sect. 2. "And whereas doubts have arisen, whether the master, wardens, and court of assistants of the said society of apothecaries, or the major part of them, can appoint or elect any person or persons who are members of the said court of assistants (although they are duly qualified according to the said recited act) to be members of the court of examiners, directed to be from time to time appointed in pursuance of the said recited act: and whereas it would be useful and expedient, that a limited number of persons, being members of the said court of assistants of the said society, duly qualified pursuant to the said recited act, should be eligible to be chosen and appointed to be members of the said court of examiners; be it therefore enacted, that from and after the passing of this act it shall and may be lawful to and for the said master, wardens, and court of assistants of the said society of apothecaries, or the major part of them, from time to time to elect and appoint any member or members of the court of assistants of the said society (not exceeding four persons in the whole,) duly qualified according to the said act to be members of the court of examiners, directed in and by the said recited act to be from time to time appointed: provided always, nevertheless, that the master and the wardens of the said society for the time being shall be in all cases incapable of being elected as members of the said court of examiners; and any person or persons who shall, after his or their election to be a member of the said court of examiners, be chosen and appointed to be either master of the said society of apothecaries, or senior warden or junior warden thereof, shall *ipso facto* vacate his seat in the said court of examiners, and shall be incapable of being re-elected, until he shall have ceased to be master or senior or junior warden of the said society."

Master and wardens may administer oaths to examiners as by 55 G. 3, c. 124.

Sect. 3. "And whereas doubts have arisen whether the oath or affirmation directed by the said recited act passed in the fifty-fifth year of the reign of his late majesty as aforesaid to be taken and subscribed by all persons who shall from time to time, in pursuance of the aforesaid act, be chosen and appointed to be members of the court of examiners, before they can act as examiners, can be administered by the master and wardens of the said society, or whether such oath or affirmation must be administered by the master, wardens, and court of assistants of the said society, or the major part of them; and it would be convenient that power should be given, as well to the master and wardens of the said society of the art and mystery of apothecaries for the time being, or to the master and one of the wardens of the said society for the time being, as to the master, wardens, and court of assistants of the said society, or the major part of them, to administer the said oath or affirmation so directed to be taken and subscribed by all persons who shall be appointed to be members of the said court of examiners, before they can act as examiners; be it therefore enacted, that from and after the passing of this act it shall and may be lawful to and for the master and wardens of the said society for the time being, or for the master and one of the wardens of the said society for the time being, or for the master, wardens, and court of assistants of the said society, or the major part of them, and they are hereby respectively authorized, required, and empowered, to administer to all persons who shall from time to time be, by the master, wardens, and court of assistants of the said society, or the major part of them, chosen and appointed to be members of the said court of examiners, by virtue of the said recited act of the fifty-fifth year of the reign of his late majesty King George III. the oath or affirmation directed by the said recited act to be taken by all persons who shall in pursuance of that act be from time to time appointed to be members of the court of examiners, before they can act as examiners."

Sect. 4. "And whereas many persons who have heretofore held, and now do or who hereafter shall hold commissions in his majesty's service, as surgeons, either in his majesty's navy, or as surgeons or apothecaries in his majesty's army, cannot commence practice as apothecaries in any part of England or Wales, without being examined by the court of examiners appointed in pursuance of the aforesaid recited act of the fifty-fifth year of the reign of his late majesty King George III. or being liable to the penalties thereby imposed on persons who, not having been in practice as apothecaries on the

1st day of August, 1815, shall commence to act or practise as apothecaries without having been examined, and received certificates of their qualification, pursuant to the said recited act : and whereas it is expedient to provide a remedy in that behalf ; be it therefore enacted, that every person who heretofore has held, or who now holds, or hereafter shall hold a commission or warrant as surgeon or assistant surgeon in his majesty's navy, or as surgeon or assistant surgeon or apothecary in his majesty's army, or as surgeon or assistant surgeon in the service of the Honourable the East India Company, shall be entitled to practise as an apothecary in any part of England or Wales, without having undergone any such examination, or received any such certificate, as by the said recited act of the fifty-fifth year of the reign of his late majesty King George III. is directed, and without being liable to any penalty or disability whatsoever imposed by the said recited act, on persons who, not having been in practice as apothecaries on the said 1st day of August, 1815, without having been examined, and received certificates in the manner directed by the said recited act, commenced practice as apothecaries in any part of England or Wales ; and no such person shall be obliged, in order to recover in a court of law any charges claimed by him as an apothecary, to prove that he was in practice as an apothecary on the said 1st day of August, 1815, otherwise than as holding a commission or warrant as surgeon or assistant surgeon in his majesty's navy, or as surgeon or assistant surgeon or apothecary in his majesty's army, or as surgeon or assistant surgeon in the service of the Honourable the East India Company ; any thing in the said recited act contained to the contrary thereof in any wise notwithstanding."

6 Geo. 4. c. 133.

Surgeons, &c. in the navy, and surgeons and apothecaries, &c. in the army, may practise without examination.

Sect. 5. " And whereas by the said recited act it is enacted, that from and after the 1st day of August, 1815, it shall not be lawful for any person (except persons already in practice as such,) to practise as an apothecary in any part of England or Wales, unless he shall have been examined in the manner, and received such certificate of qualification, as by the said recited act is directed : and whereas it is also thereby enacted, that if any person (except such as are then actually practising as such,) shall after the said 1st day of August, 1815, act or practise as an apothecary, in any part of England or Wales, without having obtained such certificate as in the said recited act is mentioned, every person so offending shall for every such offence forfeit and pay the sum of 20*l*. ; and if any person (except such as are then acting as such, and excepting persons who have actually served such an apprenticeship as in the said recited act is mentioned), shall after the said 1st day of August, 1815, act as an assistant to any apothecary to compound and dispense medicines, without having obtained such certificate as in the said act is mentioned, every person so offending shall for every such offence forfeit and pay the sum of 5*l*. : and whereas by the said recited act it is also further enacted, that no apothecary shall be allowed to recover any charges claimed by him in any court of law, unless such apothecary shall prove on the trial that he was in practice as an apothecary prior to or on the said 1st day of August, 1815, or that he has obtained a certificate to practise as an apothecary from the said master, wardens, and society of apothecaries as aforesaid : and whereas by the said recited act it is also enacted, that nothing in the said act contained shall extend or be construed to extend to lessen, prejudice, or defeat, or in any wise to interfere with any of the rights, authorities, privileges, and immunities of any person or persons practising as an apothecary previously to the 1st day of August, 1815 ; but the said persons or person shall have, use, exercise, and enjoy all such rights, authorities, privileges, and immunities, in as full, ample, and beneficial a manner, to all intents and purposes, as they might have done before the passing of the said recited act, in case the same had never been passed : and whereas it is expedient that the several terms or periods in the said act mentioned, after which persons not being at such times or periods in practice as apothecaries are required by the said recited act to be examined, or are thereby made subject to the penalties by the said act imposed on persons commencing practice as apothecaries, or assistants to apothecaries, contrary to the provisions thereof, or to prove their exemption from

55 G. 3. c. 104.
Sect. 14.

Sect. 20.

Sect. 11.

Sect. 12.

6 Geo. 4, c. 123.

Explaining certain provisions in 55 G. 3, c. 194, as to practising as apothecaries on or before Aug. 1, 1815.

such penalties, should be accurately defined; be it therefore enacted, that the first mentioned exception contained in the said act shall be deemed and construed to extend to such persons only who were in actual practice as apothecaries on or before the said 1st day of August, 1815; and that the exception contained in the said act from the penalty of 20*l.* thereby imposed shall in like manner be construed to extend only to persons who were in actual practice as apothecaries on or before the said 1st day of August, 1815; and that the exception contained in the said recited act from the penalty of 5*l.* thereby imposed shall in like manner be construed to extend only to persons who were, on or before the said 1st day of August, 1815, acting as assistants to apothecaries therein mentioned, or who have actually served an apprenticeship of five years to an apothecary, and that in like manner the day on which any apothecary claiming to recover any charges in any court of law or equity in England or Wales shall be obliged to prove himself to have been in practice, so as to entitle him to recover such charges without shewing that he has received a certificate of his qualification from the said court of examiners appointed in pursuance of the said recited act, shall be construed to be the said 1st day of August, 1815; and that the saving right contained in the said act in favour of persons who have exercised the practice of apothecaries shall be construed to extend only to and in favour of such persons who were in actual practice as apothecaries on the said 1st day of August, 1815."

55 G. 3, c. 194.
Sect. 15.

Authorizing the court of examiners to examine apprentices to surgeons.

Sect. 6. "And whereas by the said act it is enacted, that no person shall be admitted to any examination for a certificate of his qualification to act or practise as an apothecary, unless he shall, among other things by the said act required, produce proof to the said court of examiners of his having served an apprenticeship of not less than five years to an apothecary: and whereas many persons who served an apprenticeship of the like period to surgeons have received a full and competent medical education to enable them to practise as apothecaries, but the said court of examiners have not any power to examine such persons; be it enacted, that from and after the passing of this act it shall and may be lawful to and for the said court of examiners to examine such persons as to their fitness for or qualification to act as apothecaries, who shall produce proof of having served an apprenticeship of not less than five years to a member of the Royal College of Surgeons in London, or to a member of the Royal College of Surgeons in Edinburgh, or to a member of the Royal College of Surgeons in Dublin, or to a surgeon in his majesty's army or navy, together with proof, to the satisfaction of the said court of examiners, of a sufficient medical education, and of good moral conduct, in like manner as by the said act is provided with regard to persons who have served an apprenticeship of not less than five years to an apothecary; any thing in the said act contained to the contrary thereof in any wise notwithstanding."

Seal of the company to be proof of the authenticity of the certificates.

Sect. 7. "And whereas the authenticating the certificates of qualification of such persons as have been or as shall be examined by the court of examiners in pursuance of the aforesaid act has been attended with considerable expense, and might often be difficult of proof, if such certificates were required to be authenticated in different parts of England at the same time in different actions: for remedy whereof, be it therefore enacted, that from and after the passing of this act, the common seal of the said society of the art and mystery of apothecaries of the city of London shall be deemed to be and shall be received in every court of law or equity in any part of England or Wales as sufficient proof of the authenticity of the certificate to which such seal shall be affixed, and that the person therein named is duly qualified to practise as an apothecary in any part of England or Wales."

Sect. 8. "And whereas many persons who have been examined as to their fitness and qualification to act as apothecaries in pursuance of the said act of the fifty-fifth year of his late majesty King George III. by the court of examiners appointed under and by virtue thereof, have been rejected upon the first and also upon the second examination of such persons: and whereas there is not any power expressly given by the said act to the said court of examiners to admit persons who have been rejected upon their second examination: and

whereas several persons who have been upon their first and second examinations deemed unfit to receive a certificate of qualification to act as apothecaries, have, upon a subsequent examination, received certificates of their qualification to act as apothecaries, and it would be expedient to provide a remedy in that behalf; be it therefore enacted, that from and after the passing of this act, it shall and may be lawful to and for the court of examiners who shall be appointed from time to time in pursuance of the said act of the fifty-fifth year of the reign of his late majesty King George III. or the major part of them, to examine any person or persons who have been rejected by the said court of examiners, on the second examination of such person or persons, from time to time as often as such person or persons shall apply to be examined, so as such future examinations be from time to time respectively at an interval of not less than six months from the previous examination; and that all persons who have heretofore received, from the said court of examiners, certificates of their qualification to act as apothecaries, upon their third or subsequent examination, shall be deemed to have been legally examined; and that the certificates which have been granted to such persons shall be deemed and taken to be as valid as if the same had been granted by the said court of examiners on the first or second examination of such persons."

6 Geo. 4, c. 132.

Power to grant certificates to persons upon the third or subsequent examinations.

Sect. 9. "And whereas by the said recited act the penalty of 5*l*. is imposed on persons who shall commit certain offences in the said act specified: and whereas there are not in the said recited act specified any means whereby the said penalty of 5*l*. thereby imposed can be recovered; be it therefore enacted, that all penalties of the amount of 5*l*., which are imposed by the said recited act, shall be recoverable in the name of the master, wardens, and society of the art and mystery of apothecaries of the city of London in any of his majesty's courts of record, in England or Wales, in the same manner, and subject to the same rules and regulations in all respects, as are in and by the said recited act declared and provided with regard to the recovery of the penalty of 20*l*. thereby imposed on certain other offences in the said recited act mentioned."

55 G. 3, c. 184.
Sect. 3, 5, 20.

Mode of recovering penalties of 5*l*.

Sect. 10 provides and enacts, "that no action or suit shall be brought or prosecuted against any person or persons, body or bodies politic, corporate or collegiate, for any thing done in pursuance of this act, or the said recited act of the fifty-fifth year of his late majesty King George III., after six calendar months next after the fact committed; or in case there shall be a continuation of damages, then after six calendar months next after the doing or committing such damage shall have ceased, and not afterwards, nor until the expiration of twenty-one days after notice shall have been given to or left for the person or persons, body or bodies politic, corporate or collegiate, against whom such action is intended to be brought, under the hand of the party intending to bring such action, previously to the commencing such action; and every such action or suit shall be laid and brought in the county where the matter in dispute shall arise, and not elsewhere; and the defendant and defendants in every such action or suit shall or may, at his, her, or their election, plead specially, or the general issue, and give this act and the said recited act of the fifty-fifth year of the reign of his late majesty, and the special matter, in evidence at any trial to be had thereupon, and that the same was done in pursuance of and by the authority of this act and the said recited act; and if it shall appear to have been so done, or if any such action or suit shall have been brought before the expiration of twenty-one days after notice shall have been given or left as aforesaid, or after sufficient satisfaction shall have been made or tendered, or shall be brought in any other county or place than as aforesaid, then and in every such case the jury shall find for the defendant or defendants; and upon such verdict, or if the plaintiff or plaintiffs shall become nonsuit, or shall suffer a discontinuance or non pros. of his, her, or their action or suit after the defendant or defendants shall have appeared, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer or otherwise judgment shall be given against the plaintiff or plaintiffs, then the defendant or defendants shall have double costs, and shall have such remedy for recovering the same as any defendant hath for recovering costs of suit in any other cases by law."

Limitation of actions for executing act.

General issue.

6 Geo. 4, c. 133.

Double costs.
Commencement
and continuance
of act.
Public act.

Sect. 11. "That this act shall take effect from and after the passing thereof, and shall continue until the 1st day of August next in the year 1826."

Sect. 12. "That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such, by all judges, justices, and others, without being specially pleaded."

Pickpockets. See Larceny. Vol. III.

Pigeons. See Game. Vol. II.

Pillory and Tumbrel.

[56 Geo. III. c. 138.]

Pillory, what.

PILLORY (in Latin, *collistrigium*, from the person's neck being put between two boards,) is a very ancient punishment, in this kingdom, and was used heretofore by the Saxons. 3 *Inst.* 219.

Tumbrel, what.

The tumbrel seemeth to have been anciently the same with the ducking-stool; an engine for the punishment of scolding women, by ducking them over head and ears in water, and especially in muddy or stinking water, according to the etymology of Lord Coke, who tells us that the word tumbrel signifieth a dung-cart. *Lamb.* 61; 3 *Inst.* 219.

Who shall find them.

Every one that hath a leet or market ought to have a pillory and tumbrel to punish offenders; and it seems that a leet may be forfeited for not taking care to have a pillory and tumbrel. 3 *Inst.* 219; 2 *Haw. c.* 11, s. 5.

Infamy of the punishment.

They that have been adjudged to the pillory or tumbrel are so infamous that they shall not be received to be jurors or witnesses. 3 *Inst.* 219.

56 Geo. 3, c. 138.
Judgment of pillory to be awarded for certain offences only.

By the stat. 56 Geo. III. c. 138, after reciting that, "as the punishment of the pillory has in many cases been found inexpedient, and not fully to answer the purpose for which it was intended," it is enacted, "that from and after the passing of this act judgment shall not be given and awarded against any person or persons convicted of any offence, that such person or persons do stand in or upon the pillory, except for the offences hereinafter mentioned; any law, statute, or usage to the contrary notwithstanding: provided that all laws now in force whereby any person is subject to punishment for the taking any false oath, or for committing any manner of wilful and corrupt perjury, or for the procuring and suborning any other person so to do, or for wilfully, falsely, and corruptly affirming or declaring, or procuring or suborning any other person so to affirm and declare, in any matter or thing which, if the same had been deposed in the usual form, would have amounted to wilful and corrupt perjury, shall continue and be in full force and effect; and that all persons guilty of any of the said several offences shall incur and suffer the same punishment, penalties, and forfeitures as such persons were subject to by the laws and statutes of this realm, or any of them, before the passing of this act, and as if this act had not been made."

Court may fine or imprison offenders.

Sect. 2 enacts, "that in all cases where the punishment of the pillory has hitherto formed the whole or a part of the judgment to be pronounced, it shall and may be lawful for the court before whom such offence is tried, to pass such sentence of fine or imprisonment, or of both, in lieu of the sentence of pillory, as to the said court shall seem most proper: provided that nothing herein contained shall extend or be construed to extend in any manner to

Not to change any punishment for offences, except the pillory.

change, alter, or affect, any punishment whatsoever which may now be by law inflicted in respect of any offence, except only the punishment of pillory, in manner as herem-above is directed."

Pilots. See Ships. Post.

Piracy.

[11 & 12 Wil. III. c. 7; 8 Geo. I. c. 24; 18 Geo. II. c. 30; 5 Geo. IV. c. 113.]

AS to the trial of piracy, see Admiralty, Vol. I. p. 47, 8.

At common law, the offence of piracy consists in committing those acts of robbery and depredation upon the high seas, which, if committed on land, would have amounted to felony there. 1 Russ. 100.

Where several mariners on board a ship lying near the Groyne seized the captain, he not agreeing with them, and, having put him on shore, carried away the ship, and afterwards committed several piracies, this force upon the captain, and the carrying away the ship, which was explained by the use of it afterwards, was adjudged piracy. *R. v. May and others*, 2 E. P. C. 796; 2 Russ. 103.

If persons at sea force the captain of a vessel to sell part of his cargo for less than its value, it is piracy. 3 T. R. 783; see 28 Hen. VIII. c. 15, s. 4. But if a pirate attack a vessel, and before he obtains possession of her, the captain, in order to redeem her, give an oath to pay a sum certain, this is no piracy, for there was no taking. *Molloy*, 64, s. 18. But if there be an actual taking, it is piracy, although the pirate afterwards allow the party to proceed on his voyage. 1 Sir L. Jenk. 98.

If a party making a caption at sea, do so by the authority of any prince or state, it cannot be considered piracy; for a nation never can be deemed pirates: fixed domain, public revenue, and a certain form of government, exempt a people from that character. Even a capture by authority of the states of Algiers, Tunis, or Tripoli, cannot be treated as piracy. 2 Sir L. Jenk. 790; *Grot.* 2, c. 18, s. 2; but see now 11 & 12 Wil. III. c. 7, *infra*, and 18 Geo. II. c. 30, s. 1, *post*, 94.

If the subjects of the same state commit robbery upon each other, upon the high sea, it is piracy. If the subjects of different states commit robbery upon each other, upon the high sea, if their respective states be in amity, it is piracy; if at enmity, it is not; for it is a general rule, that enemies never can commit piracy on each other, their depredations being deemed mere acts of hostility. 1 Sir L. Jenk. 94; 4 Inst. 154.

See further, *Robbery, post*.

A variety of offences have been made piracies by different statutes.

The 11 & 12 Wil. III. c. 7, s. 8, (made perpetual by the 6 Geo. I. c. 19, enacts, that, "if any of his majesty's natural-born subjects or denizens of this kingdom shall commit any piracy or robbery, or any act or hostility, against others his majesty's subjects, upon the sea, under colour of any commission from any foreign prince or state, or pretence of authority from any person whatsoever, such offender and offenders, and every of them, shall be deemed, adjudged, and taken to be pirates, felons, and robbers; and they and every of them, being duly convicted thereof, according to this act, or the aforesaid statute of King Henry VIII. (28 Hen. VIII. c. 15,) shall have and suffer such pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers, upon the seas, ought to have and suffer."

By stat. 11 & 12 Wil. 3, c. 7, king's subjects, &c. committing piracy on others of the king's subjects by commission from any foreign prince, shall be adjudged pirates, &c., and suffer death.

11 & 12 W. 3, c. 7.

Commander or mariner, who shall betray his trust, or turn pirate, &c.

Sect. 9 enacts, "that if any commander or master of any ship, or any seaman or mariner, shall, in any place where the admiral hath jurisdiction, betray his trust, and turn pirate, enemy, or rebel, and piratically and feloniously run away with his or their ship or ships, or any barge, boat, ordnance, ammunition, goods, or merchandizes, or yield them up voluntarily to any pirate, or shall bring any seducing messages from any pirate, enemy, or rebel, or consult, combine, or confederate with, or attempt or endeavour to corrupt, any commander, master, officer, or mariner, to yield up or run away with any ship, goods, or merchandizes, or turn pirate, or go over to pirates;" "or make or endeavour to make a revolt in the ship, (he) shall be adjudged, deemed, and taken to be a pirate, felon, and robber, and, being convicted thereof according to the directions of this act, shall have and suffer pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers, upon the seas, ought to have and suffer."

Persons setting forth, or aiding or assisting any pirate, &c.,

Sect. 10 recites that, "several evil-disposed persons, in the plantations and elsewhere, have contributed very much towards the increase and encouragement of pirates, by setting them forth, and by aiding, abetting, receiving, and concealing them and their goods, and there being some defects in the laws for bringing such evil-disposed persons to condign punishment:" enacts, "that all and every person and persons whatsoever, who, after the 29th day of September, in the year of our lord 1700, shall, either on the land or upon the seas, knowingly or wittingly set forth any pirate, or aid and assist, or maintain, procure, command, counsel, or devise any person or persons whatsoever, to do or commit any piracies or robberies upon the seas, and such person and persons shall thereupon do or commit any such piracy or robbery, then all and every such person or persons whatsoever, so as aforesaid setting forth any pirate, or aiding, assisting, maintaining, procuring, commanding, counselling, or advising the same, either on the land or upon the sea, shall be and are hereby declared, and shall be deemed and adjudged to be, accessory to such piracy and robbery done and committed; and further, that after any piracy or robbery is or shall be committed by any pirate or robber whatsoever, every person and persons, who, knowing that such pirate or robber has done or committed such piracy and robbery, shall, on the land or upon the sea, receive, entertain, or conceal any such pirate or robber, or receive or take into his custody, any ship, vessel, goods, or chattels, which have been by any such pirate or robber piratically and feloniously taken, shall be, and are hereby likewise declared, deemed, and adjudged to be, accessory to such piracy and robbery; and that, after the said 29th day of September, all such accessories to such piracies and robberies shall and may be inquired of, tried, heard, determined, and adjudged, after the common course of the laws of this land, according to the said statute made in the twenty-eighth year of King Henry VIII. as the principals of such piracies and robberies may and ought to be, and not otherwise; and; being thereupon attainted, shall suffer such pains of death, losses of lands, goods, and chattels, and in like manner, as the principals of such piracies, robberies, and felonies, ought to suffer, according to the said statute of King Henry VIII., which is hereby declared to be and continue in full force, any thing in this present act contained to the contrary notwithstanding."

shall be adjudged accessories,

the like for concealing pirates, &c.

How accessories shall be tried.

Reward to discover any combination for running away with ship, &c.,

Sect. 12. "And for the better and more effectual prevention of combinations and confederacies for the running away with or destroying of any ship, goods, or merchandize: be it further enacted by the authority aforesaid, that a reward of 10*l*. for every ship or vessel of one hundred tons or under, and 15*l*. for every ship or vessel of a greater burden, shall be paid by the captain, commander, or master of every ship or vessel, wherein any such combination or confederacy shall be set on foot for the running away with or destroying any such ship, or the goods and merchandizes therein laden, to such person as shall first make a discovery thereof, upon due proof of such combination or confederacy; the same to be paid at the port where the wages of the seamen of the said ship are or ought to be paid, after such discovery and proof made."

and how to be paid.

Sect. 16. How commissions to the cinque ports shall be directed. See Admiralty, Vol. I.

Sect. 17. For the prevention of seamen deserting of merchant ships abroad, in parts beyond the seas, which is the chief occasion of their turning pirates, and of great detriment to trade and navigation in general, it is enacted, "that all such seamen, officers, or sailors, who shall desert the ships or vessels wherein they are hired to serve for that voyage, shall for such offence forfeit all such wages as shall be then due to him or them."

1 Geo. 1. c. 24.

Seamen deserting merchant ships to lose their wages.

It has been decided that making, or endeavouring to make, a revolt, with a view to procure a redress of grievances, and without any intent to run away with the ship, or to commit any act of piracy, is an offence within the ninth section of this statute. *R. v. Hastings, R. & M. C. C. 82.*

By the 1 Geo. 1. c. 24, (made perpetual by 2 Geo. II. c. 28,) sect. 1, reciting that "the number of persons committing piracies, felonies, and robberies upon the seas, is of late very much increased; and, notwithstanding the laws already made and now in being, many idle and profligate persons have turned pirates, and betaken themselves to that wicked course of life, whereby the trade and navigation into remote parts will greatly suffer, unless some further provision be speedily made for bringing such persons, and all others, who shall be any ways aiding and assisting, or in confederacy with them, to condign punishment;" it is declared and enacted, "that if any commander or master of any ship or vessel, or any other person or persons shall, from and after the 25th day of March, which shall be in the year of our lord 1722, anywise trade with any pirate, by truck, barter, exchange, or in any other manner, or shall furnish any pirate, felon, or robber upon the seas, with any ammunition, provision, or stores of any kind, or shall fit out any ship or vessel knowingly, and with a design to trade with, or supply or correspond with any pirate, felon, or robber upon the seas; or if any person or persons shall anywise consult, combine, confederate, or correspond with any pirate, felon, or robber upon the seas, knowing him to be guilty of any such piracy, felony, or robbery, such offender and offenders, and every of them, shall in each and every of the said cases be deemed, adjudged, and taken to be guilty of piracy, felony, and robbery, and he and they shall and may be inquired of, tried, heard, and adjudged of, and for all or any the matters aforesaid, according to the 28 Hen. VIII. c. 15, and the 11 & 12 Wil. III. c. 7, and he and they, being convicted of all or any the matters aforesaid, shall suffer such pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas ought to suffer; and, in case any person or persons belonging to any ship or vessel whatsoever, upon meeting any merchant ship or vessel on the high seas, or in any port, haven, or creek whatsoever, shall forcibly board or enter into such ship or vessel, and though they do not seize and carry off such ship or vessel, shall throw overboard or destroy any part of the goods or merchandizes belonging to such ship or vessel, the person or persons who shall be guilty thereof, shall in all respects be deemed and punished as pirates as aforesaid."

Commander of ships or others, trading with pirates, furnishing them with stores, corresponding with them, &c.

Persons belonging to any vessel, forcibly boarding any merchant ship, and throwing any goods overboard.

Sect. 3. Reciting that there are some defects in the laws for bringing persons who are accessories to piracy and robbery upon the seas, to condign punishment, if the principal who committed such piracy and robbery is not or cannot be apprehended and brought to justice, enacts, "that all and every person and persons whatsoever, who, by the said statute made in the eleventh and twelfth years of the reign of King William III. are declared to be accessory or accessories to any piracy or robbery therein mentioned, are hereby declared, and shall be deemed and taken, to be principal pirates, felons, and robbers, and shall and may, from and after the said 25th day of March, 1722, be inquired of, heard, determined, and adjudged, in the same manner as persons guilty of piracy and robbery may and ought to be inquired of, tried, heard, determined, and adjudged by the said statute made in the eleventh and twelfth years of his late majesty King William, and, being thereupon attainted and convicted, shall suffer such pains of death, loss of lands, goods, and chattels, and in like manner, as pirates and robbers ought by the said act to suffer."

Persons declared accessories to piracy, by 11 & 12 Wil. 3, c. 7, shall be deemed principals.

Sect. 4 enacts, "that all and every offender or offenders convicted of any piracy, felony, or robbery, by virtue of this act, shall not be admitted to have the benefit of clergy, but be utterly excluded of and from the same."

Offenders convicted on this act, excluded the benefit of clergy.

18 Geo. 2, c. 30.

Sect. 7 enacts, "that masters or seamen, not defending themselves against pirates, or who shall utter any discouraging words, shall, if the ship be taken, forfeit their wages to the owners, and suffer six months' imprisonment."

18 Geo. 2, c. 30.

By the 18 Geo. II. c. 30, s. 1, reciting that, by an act made in the eleventh year of King William III., intituled, "An Act for the more Effectual Suppression of Piracy," it is (amongst other things) enacted, "that all piracies, felonies, and robberies committed on the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, may be examined, inquired of, tried, and determined and adjudged, according to the directions of the said act, in any place at sea, or upon the land, in any of his majesty's islands, plantations, colonies, dominions, forts, or factories, to be appointed for that purpose by the king's commission, in the manner therein directed; and it is also thereby further enacted, that if any of his majesty's natural-born subjects, or denizens of this kingdom, shall commit any piracy or robbery, or any act of hostility, against others of his majesty's subjects, upon the sea, under colour of any commission from any foreign prince or state, or pretence of authority from any person whatsoever, such offenders shall be deemed pirates, felons, and robbers; and they, being duly convicted, according to the said act, or according to an act of the twenty-eighth year of the reign of King Henry VIII. therein recited, shall have and suffer such pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas ought to have and suffer; and whereas, since the present wars with France and Spain, divers of his majesty's natural-born subjects have entered in the service of his majesty's enemies, on board privateers, or other ships, having commissions from the crowns of France and Spain, and committed divers hostilities against his majesty's subjects upon the seas, in the West Indies, and other parts; and whereas doubts have arisen, whether, as such offenders have, by such their adherence to the king's enemies, been guilty of high treason, they can be deemed guilty of felony, within the intent of the said act, and, as such, liable to be tried by the said court of admiralty, appointed, or to be appointed, by virtue of the said act: therefore, to put an end to the said doubts, and to prevent the inconveniences that must arise, by the want of speedy justice on such offenders," it is enacted, that all persons, being natural-born subjects, or denizens of his majesty, who, during the present or any future wars, have committed, or shall commit, any hostilities upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have power, authority, or jurisdiction, against his majesty's subjects, by virtue or under colour of any commission from any of his majesty's enemies, or have been or shall be any other ways adherent, or giving aid or comfort to his majesty's enemies upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have power, authority, or jurisdiction, may be tried as pirates, felons, and robbers in the said Court of Admiralty, on shipboard, or upon the land, in the same manner as persons guilty of piracy, felony, and robbery, are by the said act directed to be tried; and such persons, being upon such trial convicted thereof, shall suffer such pains of death, loss of lands, goods, and chattels, as any other pirates, felons, and robbers ought, by virtue of the said recited act of the eleventh year of King William III., or any other act, to suffer."

Subjects or denizens, during any wars, committing hostilities at sea, against his majesty's subjects, where the admirals have power, or giving aid, &c. to enemies at sea, may be tried as pirates.

Not to be tried again for the same crime as high treason.

Criminals not tried by this act, may be tried for high treason, by 28 H. 8, c. 5.

Dealing in slaves on the high seas, &c. to be deemed piracy.

Sect. 2 provides and enacts, "that any person who shall be tried and acquitted, or convicted, according to this act, for any of the said crimes, shall not be liable to be indicted, prosecuted, or tried again in Great Britain, or elsewhere, for the same crime or fact, as high treason."

Sect. 3 provides, that nothing in this act contained shall be construed to extend to prevent any persons guilty of any of the said crimes, who shall not be tried according to this act, from being tried for high treason within this realm, according to the aforesaid act of the twenty-eighth year of King Henry VIII.

By the 5 Geo. IV. c. 113, s. 9, it is enacted, "that if any subject or subjects of his majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories, or territories, now or hereafter belonging to his majesty, or being in his majesty's occupation or possession, or under the government of the united company of merchants of England,

trading to the East Indies, shall, except in such cases as are in and by this act permitted, after the first day of January, 1825, upon the high seas, or in any haven, river, creek, or place, where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove, or aid and assist in carrying away, conveying, or removing, any person or persons as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves, into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, or shall, after the said first day of January, 1825, except in such cases as are in and by this act permitted, upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining on board any ship, vessel, or boat, any person or persons for the purpose of his, her, or their being carried away, conveyed, or removed, as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, then, and in every such case, the person or persons so offending shall be deemed and adjudged guilty of piracy, felony, and robbery, and, being convicted thereof, shall suffer death without benefit of clergy, and loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas, ought to suffer." See *Slave Trade, post*.

6 Geo. 4, c. 112.

Form.

Admiralty of England: The jurors for our lord the king upon their oath present, that C. D., late of, &c., and E. F., late of the same place, seamen, on, &c., with force and arms, upon the high sea, within the jurisdiction of the Admiralty of England, to wit, in and on board of a certain ship called [the Dart], in a certain place upon the high sea, called [or distant about] from then being, in and upon certain seamen, to wit, G. H., &c. [or, to the jurors aforesaid unknown] in the peace of God and of our lord the king then and there being, piratically and feloniously did make an assault, and them the said seamen in bodily fear and danger of their lives on the high sea aforesaid then and there piratically and feloniously did put, and the said ship called [the Dart], and the apparel and tackle of the said ship, of the value of [£2000—state enough—and one hundred chests of oranges], of the value of [£100—state enough], in and on board the said ship then being, of the goods and chattels of I. J., &c. [or, certain subjects of our said lord the king, to the jurors aforesaid unknown,] and then and there in the custody and possession of the said seamen last aforesaid, with force and arms, from the care, custody, and possession, and against the will of the said seamen last aforesaid, then and there, to wit, on the day and year last aforesaid, upon the high sea aforesaid, in the place aforesaid, and within the jurisdiction aforesaid, piratically, feloniously, and violently did steal, take, and carry away; against the peace of our said lord the king.

Indictment for piracy at common law.

Place. See Indictment. Vol. III. **Conviction.** Vol. I.

Plague and Quarantine. (a)

[6 Geo. IV. c. 78.]

THE performance of quarantine, or forty days' probation, when ships arrive from countries infected with contagious disorders, is of the highest importance, as it affects the public health of the nation, and has been enforced from time to time by various legislative enactments. 4 *Bl. Com.* 161.

The principal statute upon this subject now in force, is the 6 Geo. IV. c. 6 Geo. 4, c. 78. 78. By that act, "all acts and parts of acts of Parliament, relating to the performance of quarantine," are repealed, and other regulations enacted in

Repeal of former statutes.

(a) See, as to the expediency of the quarantine cases, 1 *Chit. C. L.*

6 Geo. 4, c. 78. their stead, for the disobedience of which various pecuniary penalties are inflicted.

What vessels shall be liable to quarantine.

By s. 2, "All vessels, as well his majesty's ships of war as others coming from any place from whence his majesty, by the advice of his privy council, shall have adjudged it probable that the plague, or other infectious disease, may be brought, and all vessels and boats receiving any person, goods, or any other article whatsoever, out of any vessel so coming from such infected place, whether such persons, goods, or other articles shall have come in such vessels, or such persons shall have gone, or articles have been put on board the same either before or after the arrival of such vessels at any port or place in the United Kingdom, or the Islands of Guernsey, Jersey, Alderney, Sark, or Man, and whether such vessels were or were not bound to any port or place in the United Kingdom or the islands aforesaid, and all persons, goods, or any other article whatsoever, on board of any vessels so coming from such infected place, or on board of any such receiving vessels or boats, shall be liable to quarantine from the time of the departure of such vessels from such infected place, or from the time when such persons, goods, or other articles, shall have been received on board respectively, and all such vessels and boats as aforesaid, and all persons, (as well pilots as others), goods, and all other articles as aforesaid, whether coming in such vessels or boats from such infected place, or going on board the same either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, and all persons, goods, and other articles as aforesaid, on board such receiving vessel or boat, shall, upon their arrival at any such port or place, be obliged to perform quarantine in such place or places, for such time and in such manner as shall from time to time be directed by his majesty, by his order in council, and that, until such vessels and boats, persons, goods, and other articles, shall have respectively performed, and shall be duly discharged from quarantine, no such person, goods, or other articles, shall come on shore or be put on board any other vessel or boat in order to come on shore, although such vessels so coming from such infected place as aforesaid, may not be bound to any port or place in the United Kingdom, or the islands aforesaid, unless in such manner and in such cases and by such licence as shall be directed or permitted by such order or orders made by his majesty in council, and all such vessels and boats, whether coming from such infected place as aforesaid, or being otherwise liable to quarantine as aforesaid; and all persons, (as well pilots as others, goods,) wares, and merchandize, and other articles as aforesaid, whether coming or brought in such vessels or boats, or going or being put on board the same, either before or after the arrival of such vessels or boats at any port or place in the United Kingdom or the islands aforesaid, and although such vessels or boats shall not be bound to any port or place in the United Kingdom or the islands aforesaid; and all commanders, masters, or other persons having the charge or command of any such vessels or boats, whether coming from any infected place or being otherwise liable to quarantine as aforesaid, shall be subject to all provisions, rules, regulations, and restrictions, contained in this act, or in any order or orders which shall be made by his majesty, his heirs, and successors, in council as aforesaid, concerning quarantine and the prevention of infection, and to all the pains, penalties, forfeitures, and punishments contained in this act, for any breach or disobedience thereof, or of any order or orders of his majesty in council, made under the authority thereof.

Power for privy council to order vessels coming from America or the West Indies, when the yellow fever, &c., prevails there, to go to certain places without being liable to quarantine.

Sec. 13. "It shall be lawful for his majesty, by his order in council, or for the privy council or any two of them, by their order, as often as they may see reason to apprehend that the yellow fever or other highly infectious distemper prevails on the continent of America or in the West Indies, to require that every vessel coming from any port or place on the continent of America or in the West Indies, shall come to an anchor at certain places, to be appointed by the commissioners of his majesty's customs, for the purpose of having the state of health of the crew of such vessel ascertained before such vessel shall be permitted to enter the port whereto she shall be bound, or any other port of the United Kingdom; but that such vessel shall not be deemed

liable to quarantine unless it shall be afterwards specially ordered under that restraint."

6 Geo. 4. c. 78.

Sect. 4. "It shall be lawful for the lord lieutenant of Ireland, by his order or orders, made by the advice and consent of his majesty's privy council in Ireland, and notified by proclamation, to give directions, where the urgency of the case shall require, as to the place or places, and as to the time and manner in which ships and vessels arriving, and persons, goods, and merchandizes coming or imported into any port or place in Ireland, shall make their quarantine in pursuance of the provisions of this act; and that until such ships, vessels, persons, goods, and merchandizes shall have respectively performed and been discharged from such quarantine, pursuant to the provisions of this act, it shall be lawful for any such persons, goods, or merchandizes, to come or be brought on shore, or to go or be put on board any other ship or vessel in any place in Ireland in such cases, and by such license as shall be directed or permitted by any order or orders to be made by the lord lieutenant of Ireland, by the advice and consent of the privy council there, and notified as aforesaid, and that all such ships and vessels, and the persons or goods coming or imported in, or going and being put on board such ships or vessels, and all ships, vessels, boats, and persons receiving any goods or persons out of the same, and all persons going on board any such ship or vessels, shall be subject to such orders, rules, and directions concerning quarantine and the preventing infection, as shall be made from time to time by the lord lieutenant of Ireland in council, and shall be notified by proclamation as aforesaid; and that the proclamation in the *Dublin Gazette* of any order or orders of the lord lieutenant and council shall be deemed to be sufficient notice to all persons concerned of all matters contained in any such order or orders respectively."

Power to lord lieutenant, where the urgency of the case requires, to give directions by proclamation where vessels shall perform quarantine, &c.

Sect. 5. Goods and vessels specified in any order of council are made subject to quarantine, as also all vessels arriving from any port under suspicious circumstances as to infection.

Sect. 6. The privy council may make such order as they shall think necessary upon emergencies.

Sect. 7. "If the plague or such other infectious disease shall appear on board any vessel within or without the Straits of Gibraltar, then the commander, master, or other person having the charge, shall immediately proceed to such place as his majesty by the advice of his council shall from time to time direct and appoint, where being arrived he shall make known his case to some officer of the customs there, who shall with all possible speed send intelligence thereof to the commissioners of the customs in the port of London, to the end that such precautions may be used to prevent the spreading of the infection as the case shall require; and the said vessel shall there remain until directions shall be given thereto by the lords or others of his majesty's privy council, or any two or more of them, nor shall any of the crew or passengers on board thereof go on shore, and such master, and every other person on board such vessel, shall obey such directions as he shall receive from the lords and others of his majesty's privy council or any two or more of them as aforesaid; and the said commander, master, or any other person on board such vessel as aforesaid who shall not act conformably to the provisions and regulations herein directed, or shall act in disobedience to such directions as shall be received on board such vessel from the lords or others of the privy council, or any two or more of them as aforesaid, shall forfeit the sum of 100*l*."

Regulations for vessels in which infection shall appear within or without the Straits of Gibraltar.

Sect. 8. Masters of vessels liable to quarantine are to make signals on meeting other vessels at sea, or being within two leagues of the United Kingdom or Guernsey, &c., on penalty of 100*l*.

Sect. 9. Masters of vessels are to hoist certain signals when plague or infectious disease on board, on penalty of 100*l*.

Sect. 10. Penalty on persons hoisting signals when not liable, 50*l*.

Sect. 11. Masters of vessels, on their arrival, are to give to the pilots an account of the places at which they shall have loaded and touched, on penalty of 100*l*. Pilots are to give notice of any proclamation or order in council requiring the performance of quarantine, on penalty of 100*l*.

Sect. 12. Pilots are to give notice if any articles be on board liable to quarantine,

6 Geo. 4, c. 78.

on penalty of 100*l*. Penalty on pilots unduly conducting vessels to any other place than that appointed for their reception, 200*l*.

Sect. 13. Pilots, &c. are to bring to at request of officer of customs, on penalty of 100*l*.

Sect. 14. Regulations are made for better ascertaining whether vessels be actually infected, or the persons on board liable to orders touching quarantine; masters of vessels refusing to answer interrogatories, or answering untruly, &c., are to forfeit 200*l*.

Sect. 15. Vessels subject to quarantine arriving at any port than that at which it ought to be performed, may be forced to repair to the appointed place. Masters of vessels that have touched at infected places, &c., omitting to disclose the same, or omitting to hoist the prescribed signal, to forfeit 300*l*.

Sect. 16. Commanders are to deliver up bills of health, manifests, and log-book, to the superintendent of quarantine, on penalty of 100*l*.

Sect. 17. A penalty is imposed on masters, &c., quitting vessels, or permitting persons to quit them, or not conveying same to the appointed places, 400*l*. Penalty on persons coming in such vessels, or going on board and quitting them before discharged from quarantine, to suffer imprisonment for six months and forfeit 300*l*.

Sect. 18. For punishing disobedience or refractory behaviour in persons under or liable to quarantine, or persons having intercourse with them : persons refusing to repair to the lazaret or vessel, to forfeit 200*l*.

Sect. 19. Persons quitting vessels liable to perform quarantine, &c., may be seized.

Sect. 20. Intercourse with stations allotted for quarantine of vessels may be prohibited by order in council, and penalty for breach, 200*l*.

Sect. 21. Penalty on persons embezzling goods performing quarantine, neglecting or deserting their duty, or permitting persons, vessels, &c., to depart without authority, or giving false certificates, or damaging goods.

Sect. 23. After proof of performance of quarantine, and proper certificate, vessels or persons, &c., are not to be liable to further detention.

Sect. 24. Goods liable to perform quarantine are to be opened and aired, as directed by order in council, and proof thereof is to be made, &c., and a certificate thereof is to be granted.

Sect. 25. Persons forging or uttering false certificates, required by order in council, guilty of felony. See *Forgery*, Vol. II.

Sect. 26. Penalty on persons landing goods, &c., from vessels liable to perform quarantine, or receiving them or secreting them from vessels performing quarantine, 100*l*.

Sect. 27. His majesty in certain cases may prohibit vessels under one hundred tons from sailing until bond be given by the master with certain conditions. Penalty for sailing without giving such security, forfeiture of vessel, &c., 200*l*.

Sect. 28. Consuls and vice-consuls may administer oaths.

Sect. 29. Persons authorized to take examinations may administer oaths; false oaths incur the penalty of wilful and corrupt perjury.

Sects. 31, 32, 33, 34, relate to the recovery and application of penalties particularly specified in the act.

Sect. 35. "All offences committed against any of the provisions of this act for which no specific penalty, forfeiture, or punishment, is provided by this act, shall and may be tried, heard, and determined before any three justices of the peace of the county, riding, division, city, or place where such offence or disobedience shall happen; and if any person shall be convicted of any such offence or disobedience, he or she shall be liable to such forfeiture and penalty, not exceeding the sum of 500*l*., for any offence, or to such imprisonment not exceeding twelve months for any one offence, as shall in the discretion of the three justices be judged proper; and such forfeiture and penalty shall be paid, two-thirds to the person suing for the same, and the remainder to his majesty, to be applied as the proceeds of other forfeitures and penalties are heretofore directed to be applied."

Offences not being felony, and offences for which no specific penalty is provided, may be determined before three justices, who may fine or imprison.

Application of penalties.

Sect. 36 enacts how far the answers of persons, having the charge of vessels, are to be received in evidence, and other matters as to evidence. 6 Geo. 4, c. 78.

Sect. 37 relates to actions, &c. against persons for acts done under the statute.

Statutes 46 Geo. III. c. 98, 50 Geo. III. c. 20, and 51 Geo. III. c. 46, are repealed by the 6 Geo. IV. c. 78, and 6 Geo. IV. c. 105.



Plate.

[28 Edw. I. c. 20; 12 & 13 Wil. 3, c. 4; 1 Anne, st. 1, c. 9; 6 Geo. I. c. 11; 12 Geo. II. c. 26; 13 Geo. III. c. 52; 24 Geo. III. c. 53; 52 Geo. III. c. 143; 56 Geo. III. c. 185; 6 Geo. IV. c. 118; 9 Geo. IV. c. 49.]

TO prevent frauds in the true making of plate, it is enacted by the 12 & 13 Wil. 3, c. 4, the 1 Anne, st. 1, c. 9, and 13 Geo. III. c. 52, that (besides the city of London) York, Exeter, Bristol, Chester, Norwich, Newcastle-upon-Tyne, Sheffield, and Birmingham, shall be appointed for the assaying and marking of plate. 12 & 13 W. 3, c. 4.
1 Anne, st. 1, c. 9.
13 G. 3, c. 52.
Assayers.

And the goldsmiths, silversmiths, and plateworkers in the said places, shall be incorporated into a company, and choose wardens yearly.

An assayer shall be elected by the company in each of the said places, who shall take an oath of office.

By the said acts, every goldsmith, silversmith, and plateworker, within the said places, and elsewhere, shall, before he takes upon him to exercise the said trade, enter his name, and mark, and place of abode, with the wardens of the company where an assayer is; and if he shall not make such entry, or shall strike any other mark but what is so entered, he shall forfeit double value, half to the king, and half to him that shall sue in any court of record in the county or place where the offence shall be committed. Maker to be entered with the wardens of the company.

Every goldsmith, silversmith, and plateworker, inhabiting where there is not an assayer, shall first fix his mark, and then send it to an assayer; and if it be found by the assayer to be of the fineness of the standard, then he shall mark it: and if any such person shall make any plate less in fineness than the standard, or put any to sale (except what by reason of its smallness is not capable of the touch) before it shall be assayed and marked, he shall forfeit the same or the value thereof. Assaying.

And by the 24 Geo. III. c. 53, s. 4, every working gold or silversmith shall send to the Assay Office all plate made by him, to be touched or assayed, and with every parcel shall send a written note, containing the day of the month and year, the name of the maker, and place of his abode, and also the species in such parcel, and number of each species, with the total weight of each parcel, and the duty payable for the same. 24 Geo. 3, c. 53.

As to the fineness thereof by the standard, it is enacted by the 6 Geo. I. c. 11, s. 41, that plate may be made, either according to the old standard (of 11 ounces and 2 pennyweights fine silver, in every pound troy), or according to the new standard (of 11 ounces and 10 pennyweights); but differently marked. 6 Geo. 1, c. 11.
Fineness by the standard.

That is to say, plate of 11 ounces and 2 pennyweights, shall be marked with the maker's mark, viz. the first letters of his christian and surname, the mark of the Goldsmiths' Company in London, viz. the leopard's head, lion passant, and a distinct variable mark to denote the year (or, with the mark of the worker or maker, and with the mark appointed to be used by the assayers at the several respective places). Mark.

And by the 12 Geo. II. c. 26, s. 5, plate of 11 ounces and 10 pennyweights shall be marked with the maker's mark, viz. the first letters of his christian and surname; and the mark of the said company, viz. a lion's head

12 Geo. 2, c. 26.

erased, the figure of a woman, called Britannia, and the said mark or letter to denote the year (or, with the mark of the worker or maker, and the mark of one of the said cities or towns respectively).

6 Geo. 1, c. 11.

Sect. 41. And it shall not be lawful to make any vessels of silver plate or manufactures of silver of a coarser alloy than what is herein specified, under the penalties and forfeitures prescribed by any of the laws now in being concerning wrought plate.

24 Geo. 2, c. 53.

Additional mark.

And moreover, by the 24 Geo. III. c. 53, s. 1, 5, all plate shall be marked with a new mark of the king's head, beside the old marks, and the duties shall be paid previous to the marking thereof.

And by s. 8, no gold or silver plate shall be sold or exchanged until marked, on pain of 50*l*.

Allowance to be made.

But by s. 7, 10, the duties shall be returned for all plate defaced for being coarser than the standard (if no fraud appear). And an allowance of one fifth part shall be made for goods sent to be assayed in a rough state.

Goods excepted.

And by s. 9, the said duties shall not extend to any jeweller's work other than mourning rings, nor to any jointed night ear-rings of gold, or gold springs of lockets, or to goods excepted by the 12 Geo. II. c. 26, s. 6.

55 Geo. 3, c. 185.

Duties.

By the 55 Geo. III. c. 185, all former duties upon plate (except arrears) are repealed, and the following substituted in lieu thereof:—

Plate of gold made or wrought in Great Britain, and which shall or ought to be touched, assayed, and marked in Great Britain, for every ounce thereof, and so in proportion for any greater or less quantity, 17*s*. per ounce.

Exemption—Gold watch-cases.

Plate of silver made or wrought in Great Britain, and which shall or ought to be touched, assayed, or marked in Great Britain, for every ounce thereof, and so in proportion for any greater or less quantity, 1*s*. 6*d*. per ounce.

Exemptions—All watch-cases, chains, necklace-beads, lockets, filligree work, shirt buckles or brooches, stamped medals, and spouts to china, stone, or earthenware tea-pots, of silver, of any weight whatsoever:

Exemptions continued.

Tippings, swages, or mounts, not weighing ten pennyweights of silver each, and not being necks or collars for castors, cruets, or glasses appertaining to any sorts of stands or frames, wares of silver not weighing five pennyweights of silver each; but this exemption not to include necks, collars, and tops for castors, cruets, or glasses, appertaining to any sort of stands or frames; buttons to be affixed to or set on any wearing apparel, solid silver buttons, and solid studs, not having a bezelled edge soldered on, wrought seals, blank seals, bottle-tickets, shoe-clasps, patch-boxes, salt-spoons, salt-ladles, tea-spoons, tea-strainers, caddy-ladles, buckles, and pieces of garnish, cabinets, or knife-cases, or tea-chests, or bridles, or stands, or frames.

52 Geo. 3, c. 143.
Forgery of gold
and silver plate
duty-marks, &c.
to be felony.

By the 52 Geo. III. c. 143, s. 7, "If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any mark, stamp, or die, which shall have been provided, made, or used in pursuance of this or any former act, relating to any duties on gold or silver plate made or wrought in Great Britain, for the purpose of marking or stamping any such gold or silver plate, in the manner directed by any such act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression of any such mark, stamp, or die, upon any such gold or silver plate, with intent to defraud his majesty, his heirs, or successors; or if any person shall mark or stamp, or cause or procure to be marked or stamped, any such gold or silver plate, or any vessel or ware of base metal, with any such forged or counterfeited mark, stamp, or die, as aforesaid, or shall transpose or remove, or cause or procure to be transposed or removed, from one piece of gold or silver plate to another, or to any vessel or ware of base metal, any impression made with any mark, stamp, or die, which shall have been provided, made, or used in pursuance of this or any former act, for the purpose of marking or stamping of any such gold or silver plate, as aforesaid; or if any person shall sell, exchange, or expose to sale, or export out of Great Britain, any such gold or silver plate, or any vessel or ware of base metal, having thereupon the impression of any such

forged or counterfeited mark, stamp, or die, as aforesaid, or any forged, counterfeited, or resembled impression of any mark, stamp, or die, so provided, made, or used as aforesaid, or any impression of any such mark, stamp, or die, which shall have been transposed, or removed from any other piece of plate as aforesaid, knowing the same respectively to be forged or counterfeited, or transposed or removed as aforesaid; or if any person shall wilfully and without lawful excuse (the proof whereof shall lie on the person accused) have or be possessed of any such forged or counterfeited mark, stamp, or die, as aforesaid, or shall privately and secretly use any mark, stamp, or die, so provided, made, or used as aforesaid, with intent to defraud his majesty, his heirs, or successors; then every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person or persons in committing any such offence, as aforesaid, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy."

52 Geo. 3, c. 13.

By the same statute, "If any person shall transpose or remove, or cause, &c. from one piece of wrought gold or silver to another, or to any vessel or ware of base metal, any impression provided, made, or used under the direction of the committee of stamps, or persons authorized in that behalf, for denoting the duties or payment of duties on plate; or shall stamp or mark, or cause, &c. any such with any mark, stamp, or die, forged or counterfeited, to resemble any mark, &c. so provided; or shall sell, exchange, or expose to sale, or export out of Great Britain, any wrought plate of gold or silver, or any vessel or ware of base metal, having thereon the impression of any forged or counterfeited mark, stamp, or die, so provided, &c. as aforesaid, or any impression of any such mark, &c. so transposed or removed as aforesaid, knowing the same to be so forged or transposed; or shall wilfully and without lawful excuse (proof to be on the accused) have or be possessed of any such forged or counterfeited mark, &c., every such offender shall on conviction be adjudged guilty of felony without clergy."

Foreign stamps, on wrought plate of gold or silver, &c.

But now, by the 1 Wil. IV. c. 66, s. 1, all forgeries theretofore declared capital (except those relating to coin), and not declared capital by that act, are to be punished with transportation or imprisonment only; and the above offence of forging marks on plate, &c., is not mentioned in the 1 Wil. IV. See *Forgery*, Vol. II.

Punishment for forgery, &c. of the mark.

R. v. Jackson, 1 Cowp. 297, 298. The defendant had been convicted upon the 28 Edw. I. c. 20, (the punishment of which is imprisonment and ransom at the king's pleasure) for making silver plate of worse alloy than the standard alloy of the realm. The indictment also contained a count upon the 6 Geo. I. c. 11, and the third for an offence at common law. He was found guilty upon all the counts. In Mich. 1774, motion was made in arrest of judgment, upon the ground of the 28 Edw. I. c. 20, being repealed, when the Court of King's Bench took time to consider and look into the acts of Parliament: Lord Mansfield declared the unanimous opinion of the court, that it "is in full force, and not repealed or abrogated by any of the subsequent statutes since enacted." His lordship observed, that the preamble of the 12 Geo. II. c. 26, recites the 28 Edw. I. c. 20, and some other acts, as subsisting laws; but says not one word as to a repeal of any of the former laws. He farther instanced two similar cases decided by him, where sentence of fine and imprisonment was pronounced, and no objection was made in either case. "Therefore," said he, "I suppose it was taken for granted, as it is at this time by the Goldsmiths' Company, that the statute was still in force. We are all of opinion that it is in force, and, consequently, that the indictment is good." The rule for arresting judgment was discharged.

R. v. Jackson.

As to the license for dealing in plate, see tit. *Excise*, Plate, Vol. II. and the 6 Geo. IV. c. 118; 9 Geo. IV. c. 49, s. 12.

License for dealing in.

Players.

[10 Geo. II. c. 28; 28 Geo. III. c. 30.]

10 Geo. 2, c. 28.
Vagrant law.

By the 10 Geo. II. c. 28, s. 1, it was enacted that every person who shall, for hire, gain, or reward, act, represent, or perform, or cause, &c., any play or other entertainment of the stage, or any part therein, if he shall not have any legal settlement where the same shall be acted, &c., without authority, by patent from the king or license from the lord chamberlain, shall be deemed a rogue and a vagabond within the 12 Anne (which act is repealed, but the same was re-enacted by the 17 Geo. II. c. 5). But that act is repealed by the 5 Geo. IV. c. 83; and players are no longer within the penalties of the Vagrant Act.

Acting, &c. without license,

Sect. 2. "If any person having or not having a legal settlement, as aforesaid, shall, without such authority or license, as aforesaid, act, represent, or perform, or cause to be acted, represented, or performed, for hire, gain, or reward, any interlude, tragedy, comedy, opera, play, farce, or other entertainment of the stage, or any part or parts therein, every such person shall, for every such offence, forfeit the sum of 50*l*."

50*l*. penalty.

Evidence to support conviction.

R. v. Glossop, 4 B. & A. 616. In a conviction of defendant for causing to be acted, at a certain place called the Coburg Theatre, in the parish of St. Mary, Lambeth, for gain and reward, a certain entertainment of the stage, called Richard the Third, the evidence set forth was, that the defendant was seen once or twice at the rehearsals of Richard; that another person was stage-manager; that defendant engaged J. B. B. to perform, and gave him a check for the amount of his benefit: it was held, that this was sufficient to warrant the justices in drawing the conclusion, that the defendant caused the play of Richard the Third to be performed. The conviction also stated, after the appearance and plea of defendant, that divers credible witnesses, to wit, J. B. B., &c., came before the justices upon their several oaths, to them severally and respectively, and in the presence of the said J. B. B., &c., duly administered: held that, taking it altogether, it did substantially appear that the oath was administered to the witnesses in the presence of the magistrates. The evidence also stated, that the Coburg Theatre was in the parish of Lambeth, and the adjudication of the penalty was to the poor of the parish of St. Mary, Lambeth: it was held, that this was no variance, it not appearing that there were two distinct parishes so named.

Form of conviction.

The conviction stated, "that on, &c., at, &c., C. W. W. came before two justices for the county of Surrey, and informed them that defendant, late of the parish of St. Mary, Lambeth, in the county of Surrey, in a certain place in the parish aforesaid, called the Royal Coburg Theatre, without lawful authority of letters patent, and without license from the Lord Chamberlain, did cause to be acted, for gain and reward, a certain entertainment of the stage, to wit, a certain tragedy called Richard the Third, or the Battle of Bosworth Field, &c., contrary to the statute, &c. The conviction then stated the appearance of defendant, and plea of *not guilty*; and then proceeded thus: "Nevertheless, upon this same day and year last aforesaid, at the said police-office, Union Hall, in the said parish of St. Saviour aforesaid, divers credible witnesses, to wit, one John Tovey, one Junius Brutus Booth, and one William Allway, came before us, the said justices, upon their several oaths on the holy gospel of God, to them severally and respectively now here, and in the presence of the said John Tovey, Junius Brutus Booth, and William Allway, respectively duly administered, depose, swear, and, in the presence of the said Joseph Glossop, upon their oaths aforesaid, severally affirm and say," &c. In the evidence it was stated that the Coburg Theatre was in the parish of Lambeth, and that an alteration of the play of Richard the Third was acted there for money. As to the defendant's causing that play to be represented, the evidence stated was, that J. B. B. became acquainted with defendant as manager and proprietor of the Coburg Theatre; that defendant was seen once or twice at the rehearsals of Richard; that another person was stage-manager; that J. B. B. engaged with defendant to perform several characters; that J. B. B. applied to defendant for that purpose; and

that defendant made him an offer for twelve nights to perform; that the contract was in writing; that J. B. B. afterwards performed there; that, at his benefit, defendant gave him a check for the amount. The conviction concluded that defendant was guilty, and adjudged the penalty of £50; one half to the informer, and one half to the poor of the parish of St. Mary, Lambeth, being the parish where the offence was committed. The conviction having been removed into the Court of King's Bench by *certiorari*, three objections were taken. First, that it did not sufficiently appear that the defendant had caused the play of Richard the Third to be performed: all that appears is, that he was seen at one or two rehearsals of Richard, and that he offered to engage performers, and paid them. But these facts do not show, even *primé facie*, that he caused that particular play to be performed, which is necessary. Secondly, the witnesses do not appear to have been sworn in the presence of the magistrates, or of the defendant; they are stated to have been sworn in the presence of themselves only: if so, the evidence was improperly taken. Thirdly, the adjudication of the penalty is to the poor of St. Mary, Lambeth; whereas the evidence states the Coburg Theatre to be in Lambeth only, and *non constat* that Lambeth and St. Mary, Lambeth, are the same parish. Abbott, C. J., said, "As to the first objection, it is sufficient to say, that it cannot prevail, unless the evidence stated on the face of the conviction be such as that no reasonable person could draw the conclusion, that the defendant caused this particular play to be performed. I am very far from thinking that to be the case. The magistrates might very reasonably draw the conclusion; and, having done so, we cannot overturn their decision as to the fact. As to the second objection, the whole forms one sentence; and it is there stated that the defendant, having appeared before the magistrates, and pleaded *not guilty*, 'nevertheless, upon this same day and year, divers credible witnesses, to wit, &c., come before us, upon their several oaths, on the holy gospel of God, now here in the presence of the said witnesses duly administered,' &c. Taking the whole together, I think it substantially appears that the oath was administered in the presence of the magistrates to the witnesses. As to the last objection, I think the evidence sufficient to support the adjudication. It does not appear that Lambeth and St. Mary, Lambeth, are two parishes; and, unless that be so, it is no variance. If, in the trial of an ejectment, the premises were described to be in St. Mary, Lambeth, and the evidence stated them to be in Lambeth, I think it would be no variance. And it was so held in *Doe d. Tollet v. Salter*, 13 East, 9, where the ejectment was for lands in Farnham, which, at the trial, were proved to be in Farnham Royal; and there it was held no variance, the defendant not having proved that there were two Farnhams. I do not think, therefore, that the magistrates were wrong in the adjudication made by them on this evidence. Upon the whole, therefore, none of these objections are sufficient; and the conviction, being regular, must be affirmed." Conviction affirmed. See further as to variances in the statement of places, *Indictment*, Vol. III.

Or other Entertainment of the Stage—*R. v. Handy*, 6 T. R. 286. The defendant was convicted in the penalty of £50, under the 10 Geo. II. c. 28, for acting, representing, and performing, a certain entertainment of the stage, called tumbling, &c., at Birmingham; which conviction was removed by *certiorari*, in order to take the opinion of the court whether this offence came within the statute. Lord Kenyon, C. J. (*inter alia*), said, "I do not think that tumbling is an entertainment of the stage within the meaning of the act; it might equally be said that fencing on a public stage is. By the third section of this act, a copy of the piece to be represented is to be sent to the Lord Chamberlain for his approbation, previous to the acting; but no copy could have been given of this entertainment. This is a penal act, and cannot be extended to entertainments which did not exist when the act was made."

Tumbling not an entertainment of the stage within the 10 Geo. 2, c. 28.

By the 10 Geo. II. c. 28, s. 7, if any interlude, &c. (as *ante*, 102), be acted, represented, or performed, in any place where wine, ale, beer, or other liquors, shall be sold or retailed, the same shall be deemed to be acted for *gain, hire, and reward*.

SECT. 3. No person shall, for hire, gain, or reward, act, or cause to be acted, any new play, or any part therein, or any new part added to an old play, or

16 Geo. 2, c. 28. any new prologue or epilogue, unless a true copy thereof be sent to the lord chamberlain fourteen days before the acting, together with an account when and where it is intended to be acted, signed by one of the managers.

The lord chamberlain may prohibit the same, as he thinks fit; and, if any such person shall, for hire, &c., act, or cause to be acted, without such copy being sent, or against such prohibition, he shall forfeit £50, and the license of the playhouse shall be void.

Sect. 5. And no person shall be authorized to act, except within the liberties of the city of Westminster, and where the king shall reside. But this section is repealed by the 7 Geo. III. c. 27, s. 19.

28 Geo. 3, c. 30.

And, by the 28 Geo. III. c. 30, s. 1, "It shall be lawful for the justices at the general or quarter sessions, at their discretion, to grant a license to any person making application for the same by petition for the performance of any such tragedies, comedies, interludes, operas, plays, or farces, as are or shall be represented at the patent or licensed theatres in Westminster, or have been submitted to the inspection of the lord chamberlain, as aforesaid, at any place within their jurisdiction, or within any city, town, or place, situate within the limits of the same, for any time not exceeding sixty days, to commence within the next six months, and to be within such four months as shall be specified in the said license, so as there be only one license in use at the same time within the jurisdiction so given, and so as such place be not within twenty miles of London or Westminster, or eight miles of any patent or licensed theatre, or ten miles of the residence of the king, or of any place within the same jurisdiction, at which, within six months preceding, a license under this act shall have been had and exercised; or within fourteen miles of either of the universities, or within two miles of the outward limits of any city, town, or place, having peculiar jurisdiction, and so also as no license under this act shall have been had and exercised at the same place within eight months then next preceding."

Sect. 2. "But no such license shall be granted to be exercised within any city, town, or place, having peculiar jurisdiction, unless proof be made that the majority of the justices acting for such place have, at a public meeting, signed their consent; or unless an express condition be therein inserted, that the same shall not be valid until approved by the majority of the justices of such place, at a meeting holden expressly for that purpose."

Sect. 3. "Nor shall such license be granted by the justices within any city, town, or place, unless notice shall have been given by the person applying for such license three weeks before such application to the mayor, bailiff, or other chief civil officer of such place, of such intended application."

10 Geo. 2, c. 28.

By the 10 Geo. II. c. 28, s. 6, all pecuniary penalties inflicted by this act may be recovered in the courts at Westminster, or before two justices, by the oath of one witness or confession, to be levied by distress; and, for want of sufficient distress, the offender to be committed to the house of correction for a time not exceeding six months, there to be kept to hard labour, or to the common gaol, not exceeding six months, without bail or mainprize. Persons aggrieved by order of the justices, may appeal to the next sessions. The said penalties to be distributed, half to the informer, or person suing, and half to the poor.

Sect. 8. Prosecution to be within six calendar months. And the section provides as to actions for acts done under the statute.

By special acts of Parliament, playhouses are permitted to be erected in particular places.

Nuisances, riot, &c.

It has been laid down that, though the audience at a theatre have a right to express their disapprobation of any performance or performer exciting their displeasure at the moment, yet if a number of persons go thither *with an intention to make a disturbance*, and render the performance inaudible, though they offer no actual violence to the house, or any person there, yet they will be guilty of a riot, or a *route*. 2 Camp. 358; and see *Conspiracy*, Vol. I.

Playhouses may become nuisances, like any other disorderly house. See *Bac. Ab. Nuisances* (a); 1 Hawk. c. 75, s. 7; *Disorderly House*, Vol. I.

It seems that players may be prosecuted as guilty of a nuisance in acting obscene plays. *R. v. Curl*, 2 Stra 790.

Plea.

WHEN the indictment is found, the defendant may either plead to it, or demur. By pleading, he puts in issue the facts of the charge; by demurring, he admits the facts, and contends that they charge no offence indictable by law. See **Demurrer**, Vol. I. as to demurrers. Plea or demurrer.

Pleas are either in abatement or bar.

Pleas in Abatement may be for the omission of the addition of the defendant, under the statute of additions, or for misnaming him, &c. See, further, *Pleas in abatement*, Vol. I. Pleas in abatement.

Pleas in Bar are either special pleas, or the general issue. Special pleas may be of a previous conviction of the same offence, or a previous acquittal on a valid indictment, or of a pardon. See *Autrefois Convict*, Vol. I. *Acquittal*, Vol. I. *Pardon, ante*, Vol. V. p. 1. Other special pleas are in practice confined to the cases of prosecutions for neglect of duty in repairing highways and bridges, when the parish indicted or presented for omitting to repair a highway, or the county indicted for omitting to repair a bridge, and desiring to throw the liability on some other party, must show that liability by specially pleading it. See *Highways*, Vol. III. p. 69. *Bridges*, Vol. I. Pleas in bar.

The plea employed in the infinitely greater number of cases in which the charge is denied, both misdemeanors and felonies, is the general issue, *not guilty*. This plea not only casts on the prosecutor the burden of making out every part of his charge, but it entitles the defendant to give in evidence every possible ground of justification and excuse which can form an answer to the accusation. See *Talf. Dick. Sess.* The general issue.

By the 7 & 8 Geo. IV. c. 28, s. 1, reciting that "trials for criminal offences in that part of the United Kingdom called England, are attended with some forms which frequently impede the due administration of justice, and it is, therefore, expedient to abolish such forms, and also to abolish the benefit of clergy [see *Clergy*, Vol. I.], and to make better provision for the punishment of offenders in certain cases," it is enacted, "that if any person, not having privilege of peerage, being arraigned upon any indictment for treason, felony, or piracy, shall plead thereto a plea of 'not guilty,' he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial, and the court shall, in the usual manner, order a jury for the trial of such person accordingly." 7 & 8 Geo. 4, c. 28.

Sect. 2 enacts, "that if any person, being arraigned upon, or charged with, any indictment or information for treason, felony, piracy, or misdemeanor, shall stand mute of malice, or will not answer directly to the indictment or information, in every such case it shall be lawful for the court, if it shall so think fit, to order the proper officer to enter a plea of 'not guilty' on behalf of such person; and the plea so entered shall have the same force and effect as if such person had actually pleaded the same." A plea of "not guilty," without more, shall put the prisoner on his trial by jury.

If he refuses to plead, court may order a plea of "not guilty" to be entered.

Forms.

(No. 1.)

A. B. } And the said A. B., by _____, his attorney, comes, and, having
at the suit of } heard the said indictment read to him, says that he is not guilty of the
the King. } premises in the said indictment specified, above laid to his charge; and
of this he, the said A. B., puts himself upon the country, &c. Plea of general issue.

Plea of general
issue to informa-
tion ex officio in
King's Bench.

In the King's Bench.
C. D. And the said C. D. appears here in court by _____ Term, Will. IV.
at the suit of } torney, and prays oyer of the said information, and it is read to him ;
the King. } which being by him heard and fully understood, he complains to have
been grievously vexed and molested, under colour of the premises, and this the less justly,
because protesting that the said information, and the matters therein contained, are in-
sufficient in law, whereto he has no need, nor is he bound by the law of the land to an-
swer ; for plea, nevertheless, the said C. D. says, that he is not guilty of the said supposed
offences in the said information mentioned, and thereby alleged to have been committed
by him, the said C. D. ; and of this he, the said C. D., puts himself upon the country, &c.

Pledge. See *Lattens (by Factors, &c.)* Vol. III. *Ante*,
Watsoning, Vol. V. p. 34.

Poaching. See *Game*. Vol. II.

Poisoning. See *Homicide*. Vol. III.

As to Attempts to Poison, see *Malicious Injuries to the Person*. Vol. III.

Police of the Metropolis.

[3 Geo. IV. c. 55 ; 6 Geo. IV. c. 21 ; 10 Geo. IV. c. 44, 45.]

I. *Provisions of the 3 Geo. IV. c. 55.*

II. *Provisions of the 6 Geo. IV. c. 21.*

III. *Provisions of the 10 Geo. IV. c. 44.*

IV. *Provisions of the 10 Geo. IV. c. 45.*

I. *Provisions of the 3 Geo. IV. c. 55.*

3 Geo. 4, c. 55.

BY the 3 Geo. IV. c. 55, intituled "An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River Thames, and its Vicinity, for Seven Years," passed 5th July, 1822—

The public offices
now established
to be continued.

SECT. 1. After reciting, that "whereas it is expedient that the provisions of the 1 & 2 Geo. IV. c. 118, should be continued and amended," enacts, "that the several police-offices now established in the parishes of St. Margaret Westminster, St. James Westminster, St. Mary-le-bone, St. Andrew Holborn, St. Leonard Shoreditch, St. Mary Whitechapel, and St. John Wapping, in the county of Middlesex, and St. Saviour, in the county of Surrey, shall be continued ; and that the several persons heretofore appointed to execute the duties of a justice of the peace at the police-offices now established under the said recited act, shall continue to execute the same at the said eight police-offices, together with such other justices of the peace for the said counties respectively as may think proper to attend thereat ; and that it shall be lawful for his majesty, his heirs and successors, upon every vacancy, by death or otherwise, to appoint

Justices to act.

His majesty may
appoint justices
to fill up vacan-
cies.

another fit person, being a justice of the peace of the said counties of Middlesex and Surrey respectively, to execute the duties of a justice of the peace at the said several police-offices, in lieu of the person making such vacancy."

3 Geo. 4, c. 36.

Sect. 2. "That one or more of the said justices so appointed shall diligently attend at each of the said police-offices every day from ten of the clock in the morning until eight of the clock in the evening, and at such other times and places as shall be found necessary, and directed by one of his majesty's principal secretaries of state; and that two of the said justices shall, in like manner, attend together at each of the said offices from twelve of the clock at noon until three in the afternoon: provided always, that no such attendance shall be given on Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving, unless in cases of urgent necessity, or when it shall be directed by such principal secretary of state."

Time of attendance.

Sect. 3. "That the present receiver for the said police-offices shall continue such receiver; and that it shall be lawful for his majesty, his heirs and successors, upon any vacancy in the said office of receiver, by death or otherwise, to appoint any other proper person, not being one of the justices appointed to act at either of the said police-offices, to be the receiver of the said eight police-offices; and that the said receiver for the time being shall receive all fees, penalties, and forfeitures, and other sums of monies applicable to the purposes of this act, and shall keep an exact and particular account of all such monies as shall be received by him, and shall apply the same quarterly in discharge of the salaries, expenses, and charges, attending the said police-offices, and in carrying this act into execution; and shall make all such contracts and disbursements as shall be necessary for purchasing, hiring, fitting up, and furnishing proper and sufficient houses and buildings wherein the said eight police-offices shall be held, in such manner as his majesty, his heirs and successors, by and with the advice and consent of his or their privy council, shall think proper to direct and appoint; of which houses and buildings so to be hired or purchased, and of all houses and buildings already hired or purchased for the like purposes, and of the fixtures and furniture thereof, and of all other necessities to be held or purchased for the purposes of this act, the property acquired therein shall be vested in the receiver for the time being, who shall and may sell, assign, and dispose of the same, or any part thereof, under the like directions and appointment, as occasion shall require; and such receiver shall prepare proper plans and estimates of all such contracts and disbursements as shall be necessary for the purposes aforesaid, and shall deliver the same to one of his majesty's principal secretaries of state; and such receiver shall further do and execute all such other lawful matters and things towards the establishment of the said eight police-offices, and towards the carrying this act into execution, as his majesty, his heirs and successors, by and with the advice of his or their privy council, shall from time to time think proper to direct."

Receiver to be continued in office; and, in case of death, his majesty may appoint another. His duty.

Making contracts, &c. for houses for police-offices.

Preparing plans and estimates of contracts, &c.

Sect. 4. "That the justices appointed, as aforesaid, or any two of them, in their respective offices, shall appoint, retain, and employ, a sufficient number of fit and able men, subject to the approbation of one of his majesty's principal secretaries of state, whom they are hereby authorized and empowered to swear in to act as constables, for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace; which constables so sworn shall, within the counties of Middlesex, Surrey, Essex, and Kent, have all such powers, authorities, privileges, and advantages, as any constable duly appointed now has, or hereafter may have, by virtue of any law or statute now made, or hereafter to be made; and shall obey all such lawful commands as they shall from time to time receive from the said justices respectively, for the apprehending offenders, or otherwise conducting themselves in the execution of their offices; and such justices may at any time suspend or dismiss from his employment any such constable attached to their respective offices, whom they shall think remiss or negligent in the execution of his duty, or otherwise unfit for the same; and, when any such constable shall be so dismissed, or cease to belong to any of the said offices, all powers and authorities vested in him as a constable under and by virtue of this act shall immediately cease and determine, to all intents and purposes whatsoever."

Justices to employ constables, subject to approbation of secretary of state,

and may dismiss, &c.

3 Geo. 4, c. 55.
Thames-police
surveyors to be
appointed in like
manner.

Powers, &c.
Their duty as to
inspecting con-
stables, &c.

Entering vessels,
and inspecting.

Justices may
suspend or dis-
miss surveyors.

Justices to be al-
lowed a salary of
600*l.* per annum.

Further sums to
be issued for pay-
ment of clerks,
constables, &c.
and for Bow-
Street Office, and
horse and foot
patrol.

No justice to
take fees but at
the public offices.

Sect. 5. "That the justices appointed to the said police-office in the parish of St. John Wapping, commonly called the Thames-Police Office, or any two of them, shall (subject to such approbation as aforesaid) appoint, retain, and employ any number of fit and discreet men, not exceeding 30, who, under the name of Thames-Police Surveyors, shall (being first duly sworn in manner above-mentioned) have, within the counties aforesaid, the powers, authorities, privileges, and advantages of a constable, as aforesaid, and shall direct and inspect the conduct of the constables attached to the Thames-Police Office, and of all persons to be employed in and about ships and vessels in the said river Thames, or in or on the several creeks, wharfs, quays, and landing-places thereto adjacent, and (subject to the orders of the said last-mentioned justices) shall have power, by virtue of their offices, to enter at all times, as well by night as by day, into and upon every ship, hoy, barge, lighter, boat, or other vessel (not being then actually employed in his majesty's service), lying or being in the said river or creeks, and into every part of every such vessel, for the purpose of inspecting, and upon occasion directing the conduct of any constable who may be stationed on board of any vessel, and of inspecting and observing the conduct of all other persons who shall be employed on board of any vessel in or about the lading or unlading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and preserving peace and good order on board of any such vessel, and for the effectual prevention in all cases of any felonies or misdemeanors being committed, and for the effectual detection of any felonies or misdemeanors which may have been committed, or which such surveyor may have reasonable cause to suspect to have been committed, on board any such vessel; and the justices appointed to the said Thames-Police Office may at any time suspend or dismiss any such Thames-police surveyor whom they shall find remiss or negligent in the execution of his duty, or otherwise unfit for the same; and, when any such surveyor shall be so dismissed, or cease to belong to the said office, all powers and authorities vested in him as such surveyor, under and by virtue of this act, shall immediately cease and determine, to all intents and purposes whatever."

Sect. 6. "That it shall be lawful for his majesty, his heirs, and successors, to direct that such sum shall be issued quarterly out of the consolidated fund of the United Kingdom of Great Britain and Ireland, to the said receiver, as will be sufficient to pay the yearly salary of 600*l.*, clear of all fees or deductions, to each of the justices so appointed to attend at the said police-offices, for their time and trouble; and such further sums as may be necessary for the expenses of the offices, and for the payment of clerks, constables, surveyors, and others therein employed, and for the payment of the expenses of the public office in Bow Street, and of the magistrates, clerks, and constables, and others therein employed, and of the horse and foot patrol acting under the orders of the chief magistrate of that office; provided that the whole of the said charges shall not exceed the annual sum of 68,000*l.*, over and above the necessary disbursements for purchasing, hiring, repairing, fitting up, and furnishing the houses and buildings wherein the said offices shall be held; and that the said receiver, out of the monies so issued to him, shall and may pay to the constables and surveyors so appointed as aforesaid, for their trouble and attendance, such sum as may from time to time appear reasonable to one of his majesty's principal secretaries of state, and any extraordinary expenses they shall appear to have been necessarily put to in apprehending offenders, and executing the orders of the justices acting under and by virtue of this act; such extraordinary expenses being first examined and approved of by the justices attending the police-office to which such constables shall be respectively attached; and such further sum for rewarding the extraordinary diligence or exertion of any of the said constables or surveyors, and for compensating them for wounds or severe injuries received in the performance of their duties, and for an allowance to such of them as shall be completely disabled by bodily injury received, or shall be worn out by length of service, as shall be directed by such principal secretary of state."

Sect. 7. "That no justice of the peace for the county of Middlesex, county of Surrey, city and liberty of Westminster, or liberty of the Tower of London, or his clerk, or any person on their behalf, elsewhere than at the said police-offices,

shall directly or indirectly, upon any pretence or under any colour whatever, take or receive any fee, reward, gratuity, or recompense, for any act by him or them done or to be done in the execution of his or their office or employ, as justice of the peace, or clerk as aforesaid, within the limits of the weekly bills of mortality, or within the parishes of St. Mary-le-bone, Paddington, St. Pancras, Kensington, and St. Luke Chelsea, in the said county of Middlesex, upon pain of forfeiting the sum of 100*l.* for every such offence; one moiety thereof to the said receiver, to be applied to the purposes of this act, and the other moiety thereof, with full costs of suit, to the person who shall sue for the same in any of his majesty's courts of record at Westminster, by action of debt, bill, plaint, or information, wherein no essoign, privilege, wager of law, or more than one imparlance shall be allowed: provided always, that nothing in this act contained shall be construed to extend to any fees taken at any general or quarter sessions of the peace, or at any meeting of justices for the purpose of licensing alehouses, or to any fees taken at the said public office in Bow Street, or to any fees taken by the vestry clerk of any parish for the purpose of enforcing the payment of any taxes or assessments arising within the same parish, or for the purpose of hearing and determining any offence cognisable before justices of the peace, by virtue of any statute made and provided for the special regulation or government of such parish."

3 Geo. 4, c. 53.

Penalty, 100*l.*

Not to extend to fees at quarter sessions, or meeting of justices for licensing alehouses, or to fees taken at the office in Bow Street, &c.

Sect. 8. "That in some conspicuous part of each of the said police-offices, and also of the said public office in Bow Street, there shall be affixed a table of the fees which may legally be taken at such offices respectively, * * * and that it shall be lawful for any justice at such offices respectively to refuse to do any act for which any fee shall be demandable, unless such fee shall be first paid; and that if any such act shall be done, and the fee due thereon shall not be paid, it shall be lawful for any justice of the peace to summon the person from whom such fee shall be due, and to make order for payment of the same, with the costs of the proceedings, and in default of payment to levy the same, with the costs of the distress, by warrant under his hand and seal."

Table of fees to be hung up.

Justices may refuse to act until fee paid, and may summon for fees due, &c.

Sect. 9. "That the justices so appointed to attend at the said police-offices, and their clerks respectively, shall, in books to be provided for that purpose, keep a full, true, and particular account of all fees taken and received at each of the said offices, together with all penalties and forfeitures which shall have been recovered, levied, or received, in pursuance of any adjudication, conviction, or order had or made at any of the said offices, or any process or warrant issuing from the same; to which books of account the said receiver shall at all times have free access; and the said justices shall, once in every quarter of a year, deliver unto such receiver such account, verified upon oath by such justice or justices, clerk or clerks, or such other person or persons as shall be employed in keeping such accounts respectively, or any part thereof, before some justice of the peace for the said county of Middlesex, or county of Surrey, and shall pay the amount of all such fees unto such receiver, to be applied in manner hereinbefore mentioned."

Account of fees and forfeitures received at the police-offices shall be delivered quarterly to the receiver, and the amount thereof paid to him.

Sect. 10. "That all such penalties and forfeitures, and shares of penalties and forfeitures, as are by any act now in force, or shall be by any future act (unless it shall contain express words to the contrary) limited and made payable to his majesty, his heirs, and successors, or to any description of persons other than the informer or informers who shall sue for the same, or any party aggrieved, and which shall be recoverable in a summary way before a justice or justices of the peace, and which shall be recovered or adjudged before any justice or justices at either of the said eight police-offices, or at the said public office in Bow Street, shall be accounted for and paid into the hands of the said receiver, by the justice, clerk, constable, officer, or other person or persons who shall levy or receive the same, to be applied by such receiver in manner hereinbefore mentioned."

All penalties (except to informers or parties aggrieved,) recovered at the police-offices, shall be paid to the receiver.

Sect. 11. "That if the justices appointed as aforesaid, or any other person having received any such fees at any of the said police-offices, shall neglect to account for and pay the same in manner aforesaid; or if any justice, justice's clerk, constable, officer, or other person, who shall levy or receive such penalties or forfeitures, or shares of penalties or forfeitures, shall neglect to pay the same into

If fees and penalties are not accounted for, receiver may sue in any court of record.

3 Geo. 4, c. 55.

Thames-police surveyors to be appointed in like manner.

Powers, &c. Their duty as to inspecting constables, &c.

Entering vessels, and inspecting.

Justices may suspend or dismiss surveyors.

Justices to be allowed a salary of 600*l.* per annum.

Further sums to be issued for payment of clerks, constables, &c. and for Bow-Street Office, and horse and foot patrol.

No justice to take fees but at the public offices.

Sect. 5. "That the justices appointed to the said police-office in the parish of St. John Wapping, commonly called the Thames-Police Office, or any two of them, shall (subject to such approbation as aforesaid) appoint, retain, and employ any number of fit and discreet men, not exceeding 30, who, under the name of Thames-Police Surveyors, shall (being first duly sworn in manner above-mentioned) have, within the counties aforesaid, the powers, authorities, privileges, and advantages of a constable, as aforesaid, and shall direct and inspect the conduct of the constables attached to the Thames-Police Office, and of all persons to be employed in and about ships and vessels in the said river Thames, or in or on the several creeks, wharfs, quays, and landing-places thereto adjacent, and (subject to the orders of the said last-mentioned justices) shall have power, by virtue of their offices, to enter at all times, as well by night as by day, into and upon every ship, hoy, barge, lighter, boat, or other vessel (not being then actually employed in his majesty's service), lying or being in the said river or creeks, and into every part of every such vessel, for the purpose of inspecting, and upon occasion directing the conduct of any constable who may be stationed on board of any vessel, and of inspecting and observing the conduct of all other persons who shall be employed on board of any vessel in or about the lading or unlading thereof, as the case may be, and for the purpose of taking all such measures as may be necessary for providing against fire and other accidents, and preserving peace and good order on board of any such vessel, and for the effectual prevention in all cases of any felonies or misdemeanors being committed, and for the effectual detection of any felonies or misdemeanors which may have been committed, or which such surveyor may have reasonable cause to suspect to have been committed, on board any such vessel; and the justices appointed to the said Thames-Police Office may at any time suspend or dismiss any such Thames-police surveyor whom they shall find remiss or negligent in the execution of his duty, or otherwise unfit for the same; and, when any such surveyor shall be so dismissed, or cease to belong to the said office, all powers and authorities vested in him as such surveyor, under and by virtue of this act, shall immediately cease and determine, to all intents and purposes whatever."

Sect. 6. "That it shall be lawful for his majesty, his heirs, and successors, to direct that such sum shall be issued quarterly out of the consolidated fund of the United Kingdom of Great Britain and Ireland, to the said receiver, as will be sufficient to pay the yearly salary of 600*l.*, clear of all fees or deductions, to each of the justices so appointed to attend at the said police-offices, for their time and trouble; and such further sums as may be necessary for the expenses of the offices, and for the payment of clerks, constables, surveyors, and others therein employed, and for the payment of the expenses of the public office in Bow Street, and of the magistrates, clerks, and constables, and others therein employed, and of the horse and foot patrol acting under the orders of the chief magistrate of that office; provided that the whole of the said charges shall not exceed the annual sum of 68,000*l.*, over and above the necessary disbursements for purchasing, hiring, repairing, fitting up, and furnishing the houses and buildings wherein the said offices shall be held; and that the said receiver, out of the monies so issued to him, shall and may pay to the constables and surveyors so appointed as aforesaid, for their trouble and attendance, such sum as may from time to time appear reasonable to one of his majesty's principal secretaries of state, and any extraordinary expenses they shall appear to have been necessarily put to in apprehending offenders, and executing the orders of the justices acting under and by virtue of this act; such extraordinary expenses being first examined and approved of by the justices attending the police-office to which such constables shall be respectively attached; and such further sum for rewarding the extraordinary diligence or exertion of any of the said constables or surveyors, and for compensating them for wounds or severe injuries received in the performance of their duties, and for an allowance to such of them as shall be completely disabled by bodily injury received, or shall be worn out by length of service, as shall be directed by such principal secretary of state."

Sect. 7. "That no justice of the peace for the county of Middlesex, county of Surrey, city and liberty of Westminster, or liberty of the Tower of London, or his clerk, or any person on their behalf, elsewhere than at the said police-offices,

shall directly or indirectly, upon any pretence or under any colour whatever, take or receive any fee, reward, gratuity, or recompense, for any act by him or them done or to be done in the execution of his or their office or employ, as justice of the peace, or clerk as aforesaid, within the limits of the weekly bills of mortality, or within the parishes of St. Mary-le-bone, Paddington, St. Pancras, Kensington, and St. Luke Chelsea, in the said county of Middlesex, upon pain of forfeiting the sum of 100*l.* for every such offence; one moiety thereof to the said receiver, to be applied to the purposes of this act, and the other moiety thereof, with full costs of suit, to the person who shall sue for the same in any of his majesty's courts of record at Westminster, by action of debt, bill, plaint, or information, wherein no essoin, privilege, wager of law, or more than one imparlance shall be allowed: provided always, that nothing in this act contained shall be construed to extend to any fees taken at any general or quarter sessions of the peace, or at any meeting of justices for the purpose of licensing alehouses, or to any fees taken at the said public office in Bow Street, or to any fees taken by the vestry clerk of any parish for the purpose of enforcing the payment of any taxes or assessments arising within the same parish, or for the purpose of hearing and determining any offence cognisable before justices of the peace, by virtue of any statute made and provided for the special regulation or government of such parish."

2 Geo. 3, c. 55.

Penalty, 100*l.*

Not to extend to fees at quarter sessions, or meeting of justices for licensing alehouses, or to fees taken at the office in Bow Street, &c.

Sect. 8. "That in some conspicuous part of each of the said police-offices, and also of the said public office in Bow Street, there shall be affixed a table of the fees which may legally be taken at such offices respectively, * * * and that it shall be lawful for any justice at such offices respectively to refuse to do any act for which any fee shall be demandable, unless such fee shall be first paid; and that if any such act shall be done, and the fee due thereon shall not be paid, it shall be lawful for any justice of the peace to summon the person from whom such fee shall be due, and to make order for payment of the same, with the costs of the proceedings, and in default of payment to levy the same, with the costs of the distress, by warrant under his hand and seal."

Table of fees to be hung up.

Justices may refuse to act until fee paid, and may summon for fees due, &c.

Sect. 9. "That the justices so appointed to attend at the said police-offices, and their clerks respectively, shall, in books to be provided for that purpose, keep a full, true, and particular account of all fees taken and received at each of the said offices, together with all penalties and forfeitures which shall have been recovered, levied, or received, in pursuance of any adjudication, conviction, or order had or made at any of the said offices, or any process or warrant issuing from the same; to which books of account the said receiver shall at all times have free access; and the said justices shall, once in every quarter of a year, deliver unto such receiver such account, verified upon oath by such justice or justices, clerk or clerks, or such other person or persons as shall be employed in keeping such accounts respectively, or any part thereof, before some justice of the peace for the said county of Middlesex, or county of Surrey, and shall pay the amount of all such fees unto such receiver, to be applied in manner hereinbefore mentioned."

Account of fees and forfeitures received at the police-offices shall be delivered quarterly to the receiver, and the amount thereof paid to him.

Sect. 10. "That all such penalties and forfeitures, and shares of penalties and forfeitures, as are by any act now in force, or shall be by any future act (unless it shall contain express words to the contrary) limited and made payable to his majesty, his heirs, and successors, or to any description of persons other than the informer or informers who shall sue for the same, or any party aggrieved, and which shall be recoverable in a summary way before a justice or justices of the peace, and which shall be recovered or adjudged before any justice or justices at either of the said eight police-offices, or at the said public office in Bow Street, shall be accounted for and paid into the hands of the said receiver, by the justice, clerk, constable, officer, or other person or persons who shall levy or receive the same, to be applied by such receiver in manner hereinbefore mentioned."

All penalties (except to informers or parties aggrieved,) recovered at the police-offices, shall be paid to the receiver.

Sect. 11. "That if the justices appointed as aforesaid, or any other person having received any such fees at any of the said police-offices, shall neglect to account for and pay the same in manner aforesaid; or if any justice, justice's clerk, constable, officer, or other person, who shall levy or receive such penalties or forfeitures, or shares of penalties or forfeitures, shall neglect to pay the same into

If fees and penalties are not accounted for, receiver may sue in any court of record.

3 Geo. 4, c. 65.

and in certain cases declared unlawful.

If declared unlawful, booths, &c. to be removed.

Penalty not exceeding 10*l.*, nor less than 20*s.*

On entering into recognizance, question as to right of title to fair may be tried in the King's Bench.

Recognizance transmitted to secretary of state.

Regulations as to coffee-shops.

such justices as may be present at some petty sessions, to be held at the time and place to be specified in the summons, not less than eight days after the service of the summons, to show his right and title to hold such fair, or to hold such fair beyond a given period (as the case may be); and if such owner or occupier shall not attend in pursuance of such summons, or shall not show to the justices present at such petty sessions sufficient cause to believe that such fair has been held by lawful right and title, for the whole period during which the same has been usually held, such justices shall declare, in writing, such fair to be unlawful, either altogether or beyond a stated period, (as the case may be,) and shall give notice of such their declaration, by affixing copies thereof on the parish church, and on the most public places in and near the ground where such fair has been usually held; and if after such notices shall have been affixed for the space of six days any attempt shall be made to hold such fair, if it shall be declared altogether unlawful, or to hold it beyond the prescribed period, if it shall be declared unlawful beyond a certain period, any justice of the peace within his jurisdiction may, by his warrant, direct any constable or other peace-officer to remove every booth, standing, and tent, and every carriage, of whatsoever kind, conveyed to or being upon such ground for the purpose of holding or continuing such fair, and to take into custody every person erecting, pitching, or fixing, or assisting to erect, pitch, or fix, any such booth, standing, or tent, and every person driving, accompanying, or conveyed in every such carriage, and every person resorting to such ground with any exhibitions, shows, swings, roundabouts, whirligigs, or other instruments of gambling or amusement, and to carry every person so taken before the justice granting such warrant, or before some other justice, who shall proceed to hear the complaint in a summary way; and every person convicted before any such justice of any of the offences last aforesaid, shall forfeit and pay any sum not exceeding 10*l.*, nor less than 20*s.*; and if the party so convicted shall not immediately pay the penalty, the justice shall commit him or her to hard labour in the House of Correction, for any space of time not exceeding three months, nor less than six days, unless the penalty shall be sooner paid: provided nevertheless, that if the owner or occupier of the ground whereon any such fair has been usually held, shall, when summoned before the justices at their petty sessions as aforesaid, enter into a recognizance in the penal sum of 200*l.* (which recognizance such justices are hereby authorized to take), with condition to appear in the Court of King's Bench on the first day of the then next term, and to answer to any information in the nature of a *quo warranto*, which his majesty's attorney or solicitor-general may exhibit against such owner or occupier, touching the right and title to such fair, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, which costs the said court is hereby authorized to award, then notwithstanding the justices shall declare such fair to be unlawful, they shall forbear from giving notice of such their declaration, and from taking any further measures thereon, until judgment shall be given by the said court against the right and title to such fair; and the justices taking such recognizance shall forthwith transmit the same to one of his majesty's principal secretaries of state, to the end that the same may be filed in the said court, and such further directions may be given thereon as to such secretary of state may seem fit and necessary."

Coffee-Shops, &c.—Sect. 18, reciting that "whereas it hath become a practice of late to open shops or rooms for the sale or under the pretence of selling ready-made coffee, tea, and other liquors, and to keep such shops or rooms open during the whole or the greatest part of the night, thereby affording shelter and accommodation to thieves, prostitutes, and other disorderly persons, and tending greatly to the encouragement of robberies, and to the concealment of stolen property," enacts, "that no shop, room, or place, for the purpose aforesaid, within the city of London or the liberties thereof, within the limits of the weekly bills of mortality, or within any of the parishes hereinbefore mentioned, shall be kept open after the hour of eleven at night during any part of the year, nor opened before the hour of four in the morning, between Lady Day and Michaelmas, or before six in the morning between Michaelmas and Lady Day; and if any such shop, room, or place, shall be open within the hours herein-

before prohibited, or being shut up, if any person shall during those hours be found therein, except the persons actually dwelling there, or having lawful excuse for being there, then the master, mistress, waiter, or other person having the care, government, or management of such shop, room, or place, whether he or she be the real owner or keeper thereof or not, shall forfeit and pay any sum not exceeding ten pounds, nor less than twenty shillings, upon conviction of any such offence before any justice of the peace, by confession or upon the oath of one or more credible witness or witnesses; and if the party so convicted shall not immediately pay the said penalty, the justice shall commit him or her to hard labour in the house of correction, for any space of time not exceeding three months, nor less than six days, unless the said penalty shall be sooner paid; and the said penalty, when paid, shall be distributed, one moiety to the informer, and the other moiety to the chamberlain of the city of London, if the offence be committed in the said city, and if out of the said city, then to the said receiver for the purposes of this act: provided always, that nothing herein contained shall apply to or affect any house duly licensed for the sale of wines and spirituous liquors; and that no such conviction shall exempt the owner, keeper, or manager of any such shop, room, or place, from any penalty or penal consequence whereto he or she may be liable for keeping a disorderly house."

Penalty not exceeding 10*l*. nor less than 20*s*.

Application of penalty.

Not to affect houses for the sale of wines and spirits.

Blowing Horns, &c.]—Sect. 19. "If any person shall, within the city of London and liberties thereof, or within the limits and parishes aforesaid, blow any horn, or use any other noisy instrument for the purpose of hawking, selling, or distributing any article whatsoever, it shall be lawful for any constable, headborough, patrol, watchman, or other person, to apprehend every person so offending, and convey him before any justice of the peace, who shall proceed to examine upon oath any witnesses appearing to give evidence touching such offence; and if the party accused shall be convicted of such offence, then and in every such case he shall for every such offence forfeit and pay any sum not exceeding 40*s*., nor less than 10*s*., to be applied in such manner as such justice shall direct; and in case the offender shall not upon conviction forthwith pay the penalty, such justice is hereby required to commit such offender to the house of correction, there to be kept to hard labour for any time not exceeding ten days, nor less than three days, unless the penalty shall be sooner paid."

Blowing of horns prohibited.

Penalty not exceeding 40*s*., nor less than 10*s*.

Convictions, &c.]—Sect. 20. "Every conviction for the offences aforesaid shall be in the following form of words, or in some other form of words to the like effect:—

Form of conviction.

"Be it remembered, that on the day of , in the year of our Lord , A. B. is brought before me, (or having been duly summoned, has neglected to appear before me,) C. D., Esq., one of his majesty's justices of the peace in and for the county of , (or city, or liberty, or place, as the case may be,) and is charged before me, the said justice, with having [here describe the offence], and it appearing to me, the said justice, upon the confession of him the said A. B., (or, upon the oath of a credible witness, as the case may be,) that the said A. B. is guilty of the said offence; I do therefore adjudge the said A. B. to forfeit and pay the sum of ; and in default of payment, to be imprisoned in the House of Correction at , and there kept to hard labour for the term of , unless the said penalty shall be sooner paid; and I do hereby direct, that the said penalty shall, when paid, be applied to [here direct the mode]. Given under my hand and seal, the day and year first above written."

Certiorari, Appeal, &c.]—Sect. 23. "No conviction under this act, for any of the offences aforesaid, shall be quashed or set aside or adjudged void or insufficient for want of form; nor shall the same be removed by *certiorari* into his majesty's Court of King's Bench; but that in all cases, where the penalty shall exceed the sum of 5*l*., or one month's imprisonment, if any person shall think himself aggrieved by such conviction, such person may appeal to the justices of the peace at the next general or quarter sessions of the peace to be held for the county or city wherein the cause of complaint shall have arisen, such person at the time of his conviction entering into a recognizance with two sufficient sureties, conditioned personally to appear at the said sessions to try such

Conviction not to be quashed for want of form, or removable by *certiorari*.

Appeal to quarter sessions, &c.

3 Geo. 4, c. 85.

Offender not appearing pursuant to recognizance.

Proceedings.

appeal, and to abide the further judgment of the justices at such sessions assembled; and in case any such conviction of a reputed thief shall be affirmed at such sessions, the said justices may adjudge the offender to be a rogue and vagabond, and proceed against him or her in the same manner as they might have done if such rogue and vagabond had been committed to the house of correction until such general or quarter sessions; and in case such offender shall not appear pursuant to the said recognizance, the person so convicted by such justice shall be deemed an incorrigible rogue, within the intent and meaning of the 3 Geo. IV. c. 40; "and the justices at such sessions, or any two of them, shall issue their warrant to apprehend and commit the person so deemed an incorrigible rogue to some house of correction or common gaol within their jurisdiction, there to remain until the next general or quarter sessions for the said county, city, or liberty, as the case may be, then and there to be further dealt with according to law."

Constables may apprehend suspected persons. (a).

In what case deemed rogues and vagabonds.

Form of conviction.

Apprehending Suspicious Persons, &c.—Sect. 21, reciting that "ill-disposed and suspected persons and reputed thieves frequent the parks, fields, streets, highways, and places adjacent, and divers places of public resort, and the avenues leading thereto, within the city of London and the liberties thereof, the limits of the weekly bills of mortality, and the said parishes of Saint Marylebone, Paddington, Saint Pancras, Kensington, and Saint Luke Chelsea, and also the said river Thames, and the docks and creeks, quays and warehouses, adjacent thereto, and the streets, highways, and avenues leading to the said river, docks, creeks, quays, and warehouses, with intent to commit felony on the persons or property of his majesty's subjects, and although their evil purposes are sufficiently manifest, the power of his majesty's justices of the peace to demand of them sureties for their good behaviour, hath not been of sufficient effect to prevent them from carrying their evil purposes into execution;" enacts, "that it shall be lawful for any constable, headborough, patrol, watchman, or other person, to apprehend every such suspected person, or reputed thief, (a) and convey him or her before any justice of the peace; and if it shall appear before the said justice, upon the oath of one or more credible witness or witnesses, that such person is a person of evil fame, and a reputed thief, and such person shall not be able to give a satisfactory account of himself or herself, and of his or her way of living, and it shall also appear to the satisfaction of the said justice, that there is just ground to believe that such person was in or on such park, field, street, highway, river, dock, creek, quay, warehouse, avenue, or other place as aforesaid, with such intent as aforesaid, every such person shall be deemed a rogue and vagabond, within the intent and meaning of an act made in the present session, for consolidating and amending the laws relating to rogues, vagabonds, and other idle and disorderly persons." See the general saving for this act, by stat. 5 Geo. IV. c. 83, s. 21, *post*, *Vagrants*.

Sect. 22. Every such conviction shall be in the following form of words, or in some other form of words to the like effect:—

"Be it remembered, that on the day of , in the year of our Lord , A. B. is brought before me, C. D., Esq., one of his majesty's justices of the peace in and for the county of , (or city, liberty, or place, as the case may be,) and charged before me, the said justice, with being a rogue and vagabond, he the said A. B. having been apprehended on the day of , in a certain , called , in the parish of , in the said county (or city, &c. as the case may be); and it appearing to me, the said justice, on the oath of , a credible witness, that the said A. B. is a person of evil fame and a reputed thief, and the said A. B., on his examination before me, not being able to give a satisfactory account of himself, or of his way of living, and it is [†] also appearing to the satisfaction of me, the said justice, that there is just ground to believe that the said A. B. was in such as aforesaid, with

(a) This provision only applies to the apprehension of persons of general bad character, as rogues and vagabonds, and not to apprehension on suspicion of a felony. *Cowles v. Dunbar*, 1 M. &

M. 37; 2 C. & P. 565. See the provision as to the apprehension of offenders in the New Police Act, 13 Geo. 4, c. 44, s. 7, which seems more extensive.

intent to commit felony on the person or property of his majesty's subjects there being; I do, therefore, in pursuance of an act passed in the third year of the reign of King George the Fourth, intituled, [here insert the title of this act] convict him, the said A. B., of the said offence, and adjudge him to be a rogue and vagabond, within the intent and meaning of the statute made in the fifth year of the reign of King George the Fourth, intituled, "An Act for the Punishment of Idle and Disorderly Persons and Rogues and Vagabonds, in that part of Great Britain called England;" and that he, for his said offence, be committed to the House of Correction at , until the next general (or quarter, as the case may be) sessions of the peace to be holden for the said county (city, or place, as the case may be), then and there to be further dealt with, according to law. [If the party be committed for a less time than until the sessions, then say, there to remain for the space of .] Given under my hand and seal, the day and year first above written.

3 Geo. 4. c. 55.

See sect. 23, *ante*, 113.

Bullock-Hunting—Sect. 24. Reciting, that "an act passed in the 21st year of his late majesty's reign, intituled 'An act to prevent the Mischiefs that arise from driving Cattle within the Cities of London and Westminster, and Liberties thereof, and Bills of Mortality,' a penalty not exceeding 20s. nor less than 5s. is imposed on every person not being hired or employed to drive cattle, who pelts with stones or brickbats, or by any other means drives or hunts away, or sets any dog or dogs at any ox, heifer, cow, steer, or other cattle, without the consent of the owner of the same, or his servant: and whereas the said penalty has been found insufficient to deter evil-disposed persons from the practice of hunting bullocks;" enacts, "that if any person shall pelt, drive, or hunt, or set any dog or dogs at any ox, heifer, cow, or steer, contrary to the provisions of the said last-recited act, such person shall, upon being convicted thereof according to the same act, forfeit and pay, on the first conviction, any sum not exceeding 40s. nor less than 20s., and, on the second and every future conviction, any sum not exceeding 5*l.* nor less than 50s., to the person or persons who shall prosecute such offender to conviction, and in default of payment shall be committed to the house of correction, there to be kept to hard labour for any time not exceeding two months on the first conviction, nor five months on the second and every future conviction, in the manner prescribed by the said last-recited act."

Bullock-hunting, penalty for, increased.

Further offence.

Bow-Street Officers may act—Sect. 25. reciting, that "it is expedient that the officers of the said public-office in Bow Street, and the horse and foot patrol acting under the orders of the chief magistrate of that office, shall be sworn in as constables, and be empowered to act within the said several counties of Middlesex, Surrey, Essex, and Kent;" enacts, "that it shall and may be lawful for the said chief magistrate to administer to such persons respectively an oath duly to execute the office of constable within the counties aforesaid; and each of such persons, being sworn, shall have power to act as a constable for the preservation of the peace, and for the security of property against felonious and other unlawful modes of obtaining the same, within any and every of the said several counties, and for apprehending offenders against the peace, as well by night as by day; and shall have all such powers and authorities, privileges and advantages, as any constable duly appointed now has or hereafter may have within his constableness: provided always, that when any such constable shall be dismissed from his said employment, or cease to belong to the said public-office in Bow Street, all powers and authorities, allowances, emoluments, privileges, and advantages, vested in the persons so dismissed or ceasing to belong to the said office, shall immediately cease and determine."

Officers and patrols of Bow Street Office to act as constables. (b)

Proviso for dismissal, &c. of constables.

Parish Watchmen, &c.—Sect. 26 enacts, "for the purpose of insuring competency and fidelity in the watchmen and patrols employed by the aldermen and

Regulations as to parish watchmen, &c.

(b) By the 10 Geo. IV. c. 45, *post*, ment. See the 6 Geo. IV. c. 21, s. 4, *post*, 123, as to swearing in street-keepers to act as constables.
under the New Police Office establish-

3 Geo. 4, c. 55:

common council of the city of London, and the vestries and other parochial and local authorities within the limits of the weekly bills of mortality and the parishes hereinbefore mentioned, when any case of incompetency, negligence, misconduct, or delinquency, shall appear to any two justices of the peace acting within the said city or limits and parishes against any such watchman or patrol, it shall be lawful for the said two justices, by writing under their hands and seals, to declare the same, and to pronounce the man so found incompetent or guilty of such negligence, misconduct, or delinquency, to be either suspended for a limited time, or absolutely dismissed from his office, as they shall think proper, and to give notice of such suspension or dismissal to the alderman and common council of the ward, if in the city of London, or to the vestry or other authority by whom such watchman or patrol was appointed, if elsewhere; and every such watchman or patrol shall be incapable of being re-appointed, either for the same or any other ward, parish, or place, while such suspension or dismissal shall remain in force; and if no watchman or patrol shall be appointed by the alderman and common council of the ward, or by the vestry or other proper authority, at their next meeting after such notice shall be delivered to the deputy of the ward, or to the clerk or secretary of such vestry, or other proper authority, or left at the house or office where their business is usually transacted, the said justices shall appoint a successor, who shall exercise and enjoy the said duties and powers, and receive the same pay, emolument, and allowances, as if regularly appointed."

No watchman or patrol to be appointed above the age of 40, &c.

Sect. 27. "That no man shall hereafter be appointed within the limits and parishes aforesaid, by any authority whatsoever, to be a watchman or patrol, who shall be above the age of forty years, unless he shall have been previously and up to the time of such appointment employed in the said horse or foot patrol."

Allowance to superannuated watchmen in London.

Sect. 28. "That it shall be lawful for the aldermen and common council of the respective wards in the city of London and liberties thereof, to make such allowance to superannuated watchmen, beadles, or patrols, as they shall think proper, to be paid out of the watch rate to be raised in such wards respectively.

Enabling constables at watch-houses to take bail at night. (c)

Night Constables may take Bail, &c.—Sect. 29 enacts, "that for the better administration of the police within the limits and parishes aforesaid, it shall be lawful for the constable or headborough attending at any watchhouse within those limits and parishes, between the hours of eight in the afternoon and six in the forenoon, to take bail by recognizance, without any fee or reward, from any person who shall be brought into his custody within the said hours without the warrant of a justice, charged with any petty misdemeanor, if such constable shall deem it prudent to take such bail for the appearance of such person before the justices at the said public-office in Bow Street, or at one of the said police-offices, to be specified in the recognizance, for examination, at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a Sunday, or on one of the days of absence allowed by this act, and in that case at the like hour on the succeeding day; and that every recognizance so to be taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before one of his majesty's justices of the peace; and the constable or headborough shall enter in a book, to be kept for that purpose in every watch-house, the names, residence, and occupation of the party and his sureties entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the justice shall cause a record of the recognizance to be drawn up, to be signed by the constable or headborough, and shall return the same to the next general or quarter sessions of the peace, with a certificate at the back thereof, signed by such justice, that the party has not complied with the obli-

In default of appearance, recognizance to be forfeited.

(c) See a similar provision in the New Police Act, 10 Geo. IV. c. 44, s. 9, *post*, 126.

tion therein contained, and the clerk of the peace shall make the like estraits and schedules of every such recognizance as of recognizances forfeited in the sessions of the peace; and if the party not appearing shall apply, by any person on his behalf, to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined, either by the dismissal of the complaint, or by binding the party over to answer the matter thereof at the sessions, or otherwise, the recognizance for the party's appearance before the justice shall be discharged without fee or reward."

3 Geo. 4, c. 68.

Time of hearing may be postponed.

Damaging Police-Boats, &c.—Sect. 30. "If any person shall wilfully destroy or damage, or endeavour to destroy or damage, or be wilfully concerned in destroying or damaging, or endeavouring to destroy or damage, any boat belonging to or hired or employed by or by the authority of the justices appointed to attend at the Thames-police office, or any part of the sails, oars, or other tackle, stores, goods, or furniture contained in or belonging to any such boat, every person so offending shall forfeit and pay for every boat so destroyed or damaged, or attempted to be destroyed or damaged, or of which any of the tackle or other contents shall have been so destroyed or damaged, or attempted to be destroyed or damaged, any sum not exceeding 30*l.* or shall suffer imprisonment for any time not exceeding three months, over and above any such damages as may be recoverable by action at law against any such offender."

Penalty for damaging, &c. boats belonging to Thames police.

Thames-Police Regulations—Sect. 31. "It shall be lawful for every such Thames-police surveyor (subject to the orders of the said justices appointed to attend the Thames-police office), having just cause to suspect that any felony has been or is about to be committed in or on board of any ship, hoy, barge, lighter, boat, or other vessel, lying or being in the said river, docks, or creeks, to enter at all times, as well by night as by day, into and upon every such ship, hoy, barge, lighter, boat, or other vessel, and therein to take all necessary measures for the effectual prevention or detection of all felonies which he has just cause to suspect to have been or to be about to be committed in and upon the said river, docks, or creeks, and to apprehend and detain all persons suspected of being concerned in such felonies, and also all property so suspected to be stolen, and the same to produce before some justice, to be dealt with according to law."

Surveyors having just cause to suspect felony may enter vessels and take up suspected persons, and the property. (d)

Sect. 32. "That it shall be lawful for every such Thames-police surveyor, at any time between sun-rising and sun-setting, to enter any ship or vessel (except his majesty's ships) in the said river, docks, and creeks, and to search the same for unlawful quantities of gunpowder, and also to exercise the same powers of seizing, removing to proper places, and detaining all such unlawful quantities of gunpowder found on board any such ship or vessel, and the barrels or other packages in which such gunpowder shall be, as are given to persons searching for unlawful quantities of gunpowder under a warrant of a justice, by virtue of an act passed in the twelfth year of his late majesty's reign, intituled 'An Act to regulate the Making, Keeping, and Carriage of Gunpowder within Great Britain, and to repeal the Laws heretofore made for any of those Purposes.'"

Unlawful quantities of gunpowder may be seized.

12 Geo. 3, c. 61.

Sect. 33. "That it shall be lawful for any Thames-police constable or surveyor, or any other peace officer within his jurisdiction, to stop, search, and detain in some place of safety, any boat, craft, or vessel which there shall be reason to suspect of having therein any of his majesty's naval stores, or any ropes, cordage, tackle, apparel, furniture, stores, materials, or any part of any cargo or lading, or any lead, iron, copper, brass, bell-metal, pewter, solder, or other article, stolen or unlawfully procured; and also to apprehend, search, and detain, any person who may be reasonably suspected of having or conveying any such articles in such boat, craft, or vessel, or on land, and to convey every such person so apprehended (as soon as conveniently may be) before some justice of the peace; and if such person shall not give an account to the satisfaction of

Where boats are suspected to have any naval stores, stolen ropes, &c. on board, they may be detained, and the persons suspected of having conveyed the stolen articles on board, may be taken before a justice, &c.

(d) See the extensive act of 7 & Geo. on the river Thames, &c. *post*, *Thames*. IV. c. LXXV. providing against offences

a Geo. 4, c. 55.

On information that there is reasonable cause for suspecting that any of the cargo of any vessel, or any of his majesty's stores, &c. have been unlawfully obtained, and are concealed, how to proceed.

such justice how he or she came by the same, then the person so apprehended shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned; and such boat, craft, or vessel, with her tackle, apparel, furniture, and loading, shall, upon such conviction, be forfeited and disposed of as is hereinafter directed."

Sect. 34. "That if, on information given on oath, it shall appear to any justice that there is reasonable cause for suspecting that any such articles as aforesaid, after having been so stolen or unlawfully obtained, are concealed or otherwise lodged in any dwelling-house, warehouse, yard, garden, or any other place, it shall be lawful for such justice, by special warrant under his hand and seal, directed to any Thames-police constable or surveyor as aforesaid, or other constable within his jurisdiction, to cause every such place to be searched at any time of the day, or by night, if power for that purpose be especially given in and by such warrant; and the said justice, if it shall appear to him necessary, may moreover empower such constable or surveyor, with any such assistance as to the said justice may appear, or by such constable or surveyor may be found necessary (such constable or surveyor having previously made known such his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise; and if, upon search thereupon made, any such suspected article shall be found, then to convey the same forthwith to and before a justice, or to guard the same on the spot while the offenders are taken before a justice, or otherwise dispose thereof in some place of safety, subject to the orders of a justice in manner above mentioned; and moreover to apprehend and convey before the said justice the person or persons in whose house, lodging, or other place the same shall so have been found, as also every other person found in such house, lodging, or place, who shall appear to have been privy to the depositing of such article in such place, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained; and if such persons respectively shall not immediately, or within some reasonable time to be assigned by the justice, make it appear to the satisfaction of the justice by what lawful means such article or articles came to be deposited or situated in such place as aforesaid, without any default on the part of such persons respectively, then and in such case the person or persons in whose house, lodging, or other place any such suspected article was found, and also every other person so appearing to have been privy to the depositing thereof, knowing or having cause to suspect the same to have been stolen, or otherwise unlawfully obtained, shall be deemed and adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned."

Misdemeanor.

Party by whom goods bought to be examined by the justice.

If goods are found to be unlawfully obtained party adjudged to be guilty of a misdemeanor.

Sect. 35. "That if any person, on being so produced before any justice to give an account of any articles seized and detained in any of the cases aforesaid, shall declare himself or herself to have bought, received, or otherwise obtained such articles of some other person, such justice is hereby authorized and required to examine every such other person, and also every other prior purchaser or pretended purchaser; and if upon the whole evidence it shall appear to such justice, that the party suspected, or the party upon whom such articles were found, or the person so produced, or such prior purchaser or pretended purchaser, or any of them, at the time of his or her receiving such articles into his or her possession, did believe or had reasonable cause to believe that such articles, or any part thereof, were at any time and by any person unlawfully come by or obtained, it shall be lawful for such justice to adjudge such party to be guilty of a misdemeanor, and the party so convicted shall thereupon suffer as hereinafter mentioned."

Masters of vessels between Westminster Bridge and Blackwall having on board guns loaded with ball, or discharging guns before sun-rising or after sun-setting, or heating tar and other combustible matter on

Sect. 36. "And for the more effectual prevention of accidents by fire and other mischiefs upon the said river," it is enacted, "that if any master or commander, or other officer of any ship or vessel (except his majesty's ships,) shall, while such ship or vessel shall lie or be in the said river between Westminster Bridge and Blackwall, keep any gun on board such ship or vessel shotted or loaded with ball, or cause or permit to be fired or discharged any gun on board such ship or vessel, before sun-rising or after sun-setting, such master, commander, or other officer shall, for every such gun so kept shotted or loaded, forfeit the sum of 5s.; and for every gun so fired or discharged, the sum of 10s.; and if any master, commander, or other officer of any such ship or vessel, or

any other person on board of the same, or any person on board of any barge lighter, boat, or other craft or vessel, shall, while such ship, barge, lighter, boat, craft, or vessel shall lie or be in the said river, between Westminster Bridge and Blackwall, heat or melt, or cause or permit to be heated or melted by fire, logger-heat shot, or any other means, on board any ship, barge, lighter, boat, craft, or vessel whatever, any pitch, tar, rosin, grease, tallow, oil, or other combustible matter, every person so offending shall, for every such offence, forfeit any sum not exceeding 5*l.*; and any one of the justices appointed to attend at the Thames-police office, or any other justice within his jurisdiction, is hereby authorized and required, upon any information exhibited or complaint made in that behalf, within ten days next after any such offence shall have been committed, to summon the party accused, and also the witnesses on either side, or after oath made of the commission of any of the facts above mentioned by one or more credible witness or witnesses, to issue a warrant to apprehend the party accused, and upon the party's appearance or contempt in not appearing (upon the proof of notice given,) such justice shall proceed to the examination of the witness or witnesses on oath, and upon due proof thereof, either by the voluntary confession of the party, or by the oath of one or more credible witness or witnesses, to give judgment or sentence; and in case the party accused shall be convicted of such offence, it shall and may be lawful for such justice to commit such offender to prison, there to remain for any time not exceeding the space of two months, unless the penalty shall be sooner paid; and if any person shall find himself aggrieved by the judgment of any such justice, he may appeal to the next court of general quarter sessions for the county or city where such offence shall have been committed, on giving immediate notice of such appeal, and finding sufficient security, to the satisfaction of such justice, for prosecuting such appeal with effect, and for abiding the determination of the court therein; and the said court are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the matter, and in case the judgment shall be affirmed, to award the person appealing to pay such costs occasioned by such appeal as shall seem meet; and one moiety of all money recovered on account of every such penalty shall be distributed, at the discretion of the justice making the conviction, to such person or persons as he shall judge to have been instrumental in detecting and prosecuting the offender."

3 Geo. 4, c. 86.

board of vessels shall forfeit not exceeding 5*l.*

Party not appearing upon notice.

Appeal to quarter sessions.

Security.

Costs.

Framing False Bills of Parcels, &c.]—Sect. 37. "Every person who, for the purpose of protecting or preventing any goods, wares, merchandize, or other articles whatsoever from being seized, on suspicion of their being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence of or concerning any felony or misdemeanor, shall frame or cause to be framed, or be anywise concerned in framing or causing to be framed any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any goods, the place from whence, or the conveyance by which the same were furnished, the price agreed upon or charged for the same, or any other particular, knowing such statement to be false, or who shall fraudulently produce such bill of parcels knowing the same to have been fraudulently framed, shall be adjudged guilty of a misdemeanor, and shall suffer as hereinafter mentioned; and may moreover, at the discretion of any justice in whose jurisdiction such offence shall be committed, be published and advertised as a fabricator of false bills of parcels, or as a convicted or reputed receiver of goods stolen or otherwise unlawfully obtained, as the case may be."

Framing a false bill of parcels to escape detection, deemed a misdemeanor.

Advertised as fabricator of false bills of parcels, &c.

Breaking Packages to injure Contents, &c.]—Sect. 38. "For the purpose of increasing the facility of depredation, it hath been a common practice among persons concerned in the landing and warehousing of merchandize from on board ships and vessels in the said river, wilfully to injure and promote the opening and breaking of casks, bags, and other packages, and the spilling of their contents;" for remedy thereof, it enacts, "that if any person employed in the loading, landing, or warehousing of any goods, or any other person, shall wilfully, or through culpable negligence or carelessness, cause or suffer, or be concerned in causing or suffering to be broken, bruised, pierced, started, cut,

Penalty for breaking, &c. packages, with an intent that the contents may be spilled.

3 Geo. 4, c. 35.

tor, or otherwise injured, any cask, box, chest, bag, or other package, containing or being designed and prepared for containing any goods while on board of any barge, lighter, or other craft lying or being in the said river, or any dock, creek, quay, wharf, or landing-place adjacent to the same, or in or in the way to or from any warehouse to or from which such package shall have been removed, shall be removing, or about to be removed, with intent that the contents of such package, or any part thereof, may be spilled or dropped from such package, every person so offending shall, for every such offence, be deemed and adjudged guilty of misdemeanor, and shall suffer as hereinafter mentioned."

Misdemeanor.

Wilfully letting fall articles into the Thames, or into a boat, &c. with fraudulent intention.

Dropping Articles into the Thames, &c. with Fraudulent Intent—Sect. 39.

"That if for the purpose of preventing the seizure or discovery of any materials, furniture, stores, or merchandize belonging to or having been part of the cargo of any ship or vessel lying in the said river or the docks or creeks adjacent thereto, or of any other articles unlawfully obtained from any such ship or vessel, any such or any other article shall be wilfully let fall or thrown into the river, or in any other manner directly or purposely conveyed away, or endeavoured to be conveyed away from any ship, boat, barge, lighter, craft, wharf, quay, or other landing-place, every person being party, privy, or accessory to such letting fall, throwing, or conveyance, or to any previous instructions or premeditated design so to let fall, throw, or convey away any such article with any such purpose as aforesaid, shall be deemed and adjudged guilty of a misdemeanor; and every Thames-police surveyor, or constable or other peace officer within his jurisdiction, shall apprehend and detain every such person, and forthwith convey him or her before some justice, and shall also seize and detain any boat in which such person shall be found, or out of which any such article shall be so let fall, thrown, or conveyed away; and upon the conviction of such person, such boat, with her tackle, apparel, furniture, and loading, shall be forfeited and disposed of as is hereinafter directed."

Misdemeanor.

Thames-police surveyor may apprehend and detain such person, and the boat, &c.

For offences declared misdemeanors, and for which no penalty is appointed, offenders shall forfeit not exceeding 5*l.*, or be imprisoned. (c)

Penalties, where none Specified—Sect. 40. "For every offence hereinbefore

declared to be a misdemeanor, or for which no special penalty is hereinbefore appointed, the offender shall, at the discretion of the justice before whom the conviction shall take place, either forfeit and pay any sum not exceeding 5*l.*, or suffer imprisonment for any time not exceeding two months, in any gaol or house of correction within the jurisdiction of such justice; and in case of the adjudication of a pecuniary penalty, and non-payment thereof, it shall be lawful for such justice to commit the offender to any gaol or house of correction for the like term, unless such penalty shall be sooner paid; and one moiety of every such pecuniary penalty shall be paid to such receiver as aforesaid for the purposes of this act, and the other moiety thereof, under the direction of the justice by whom the same shall have been adjudged, shall either be paid and applied to the use of the informer alone, or be distributed between such persons as shall have contributed to the conviction of the offender, in such shares and proportions as such justice shall think fit; and that when any articles shall be seized by virtue of this act, and the person in whose possession the same shall have been found shall be convicted of a misdemeanor as aforesaid, it shall be lawful for the justice before whom the conviction shall take place, to cause such articles to be advertised in some public newspaper, to the end that persons having a right thereto may claim and receive the same within thirty days from the date of such advertisement, in the manner and upon the conditions directed in and by an act of the second year of his late majesty's reign, intituled 'An Act to prevent the Committing of Thefts and Frauds by Persons navigating Bum-boats and other Boats upon the River Thames;' and if no person shall prove his property and right to the said articles within the said thirty days, the same shall be sold for the best price that can reasonably be gotten for the same; and, after deducting the charges according to the said recited act, the residue of the produce thereof shall be paid to the said receiver, for the purposes of this act."

Articles seized to be advertised if person convicted.

2 Geo. 3, c. 28. If claim not made, goods sold.

(c) As to the application of the penalties and forfeitures under this act, see 10 Geo. IV. c. 45, s. 3, *post*.

Trial of Offences—Sect. 41. "In every case in which complaint shall be made of any offence by this act declared to be a misdemeanor, or for which any pecuniary penalty is hereinbefore appointed, with or without imprisonment, in addition thereto, or in lieu thereof, the matter of such complaint, if the offence shall have been committed, or the offender apprehended, within the jurisdiction of the city of London, may be heard and determined by the lord mayor, recorder, or one of the aldermen of the said city, and not elsewhere; but if the offence shall have been committed, or the offender apprehended, out of the said jurisdiction, such complaint may be heard and determined either by one of the justices appointed to the Thames-police office, as aforesaid, or by any other justice within whose jurisdiction the offence shall have been committed, or the offender apprehended; and every conviction thereupon had shall be certified, filed, and entered, in such manner as is directed in and by the said act of the second year of his late majesty's reign, with respect to convictions under that act, and may also be drawn up in such form and manner, *mutatis mutandis*, as is appointed in and by the same act; and neither such conviction, nor any proceeding previous thereto, shall be removed by *certiorari*, or otherwise, into any court of record, but such conviction shall be final and conclusive to all intents and purposes whatsoever."

3 Geo. 4, c. 55.

Offences, how to be tried.

Misdemeanors under 2 Geo. III. c. 28, how Punished—Sect. 42, reciting that "whereas the punishments for misdemeanors provided in and by the said act of the second year of his late majesty's reign, have been found insufficient for the preventing of such offences," enacts, "that every person who shall be guilty of any of the offences respectively made and declared to be misdemeanors in and by the said act, may be punished at the discretion of the justice or justices by or before whom the offender shall be convicted, either with the punishment appointed in and by the said act, or by such other punishment as is hereby appointed for and in cases of offences declared to be misdemeanors in and by this present act; and that all the powers and provisions of the said last-recited act, respecting the obstruction of its execution, and the commencement and prosecution of actions against justices, and their officers acting thereunder, shall extend to all things done, and to all persons acting, under this act, as fully as if the same powers and provisions were herein repeated and re-enacted."

Misdemeanors under 2 Geo. 3, c. 28, punished at discretion of justice, as herein mentioned.

Forfeited Boats, &c. may be Restored—Sect. 43. "In all cases in which it is directed by the said last-recited act, that any boat, with her tackle and appurtenances, which shall be forfeited, shall be burnt and destroyed, it shall be lawful for any justice, before whom any person shall have been convicted of any offence, whereby any boat is or should be adjudged to be forfeited under that act, and also for any justice by whom any boat shall be adjudged to be forfeited under this act, to direct such boat, with her tackle and appurtenances, either to be burnt and destroyed, or to be restored to the owners thereof, or to be publicly sold, and the produce of such sale to be applied in like manner as other forfeitures under this act."

Forfeited boats may be burnt, or restored, or sold.

Disputes about Wages on Thames—Sect. 44, reciting, that "disputes frequently arise between bargemen, lightermen, watermen, ballastmen, coal-whippers, coal-porters, sailors, lumpers, riggers, shipwrights, caulkers, and other labourers, who work for hire in or upon the said river, and the docks, creeks, wharfs, quays, and places adjacent, respecting wages or money due to them for work, and the owners, masters, or commanders of vessels, and their agents, and the owners, wharfingers, or occupiers of such wharfs or quays, and their agents, and other persons employing such labourers;" enacts, "that all differences, complaints, and disputes, which shall happen and arise between any bargemen, lightermen, watermen, ballastmen (except Trinity ballastmen), coal-whippers, coal-porters, sailors, lumpers, riggers, shipwrights, caulkers, or other labourers, who work for hire in or upon the said river, or the docks, creeks, wharfs, quays, or places adjacent, and the owners, masters, or commanders of vessels, or their agents, on the said river, or the docks or creeks thereunto adjoining, or the owners, wharfingers, or occupiers, of such wharfs or quays, or their agents, or other employers, respecting wages or money due to such labourers for work, whether the same persons be employed for any certain time, or in any other manner, shall be heard and de-

Disputes about wages for labour done on the river, &c. (except by Trinity ballastmen), to be settled by justices, if not exceeding 5*l*.

3 Geo. 4, c. 59.

Neglecting
summons.† *Sic.*† *Sic.*If money not
paid.

Distress.

Imprisonment.

Proviso for ju-
risdiction of
London, as to
work done on
the Thames, &c.And for rights of
city of London,
&c.And of the lord
mayor, as con-
servator, &c.And for the dean
and high steward
of Westminster.And for Trinity
House, &c.

terminated by the justices appointed to the Thames-police office, or any one of them, or any other justice within his jurisdiction; and every such justice is hereby empowered to summon before him any such master or commander of any vessel, or any such owner thereof, or his agent, or the owner, wharfinger, or occupier of any wharf or quay, or their respective agents, or any other employer; and, if any such master, commander, owner, wharfinger, occupier, agent, or employer, shall refuse or neglect to attend such summons, then every such justice is hereby empowered to issue his warrant to bring such person summoned before him, to answer such complaint, and to examine upon oath any such bargemen, lightermen, waterman, † ballastman (other than any Trinity ballastman), coal-whipper, coal-porter, sailor, lumper, rigger, shipwright, caulker, or other labourer, or any other witness or witnesses, touching any such complaint or dispute, and to make such order for payment of so much wages to such bargemen, † lighterman, waterman, ballastman (other than any Trinity ballastman), coal-whipper, coal-porter, sailor, lumper, rigger, shipwright, caulker, or other labourer, as to such justice shall seem just and reasonable, provided that the sum ordered do not exceed £5, besides all reasonable costs attending the prosecution of the complaint, which costs the justice is empowered to order; and, in case of refusal to pay, or non-payment of any sum so ordered, by the space of twenty-four hours next after such determination, such justice may issue forth his warrant to levy the same, by distress and sale of the goods and chattels of the person ordered to pay the same, together with the charges of such distress and sale; and, if no sufficient distress shall be found, such justice shall commit the person ordered to make such payment to prison, for any time not exceeding one month, unless the sum so ordered shall be sooner paid; and every such order shall be final and conclusive, to all intents and purposes, and shall not be removable, by *certiorari* or otherwise, into any court whatsoever."

Jurisdiction of London, as to Work done on Thames, &c.—Sect. 45. "That nothing herein contained shall extend to authorize or empower any justice, except the lord mayor, aldermen, and recorder, of the city of London, for the time being, or some or one of them, to hear and determine any such differences, complaints, or disputes, as shall or may arise for or in respect of any employment or work done within the said city of London, or the suburbs and liberties thereof, or on board of any ship, hoy, barge, lighter, boat, or other vessel, lying or being on the north side of the river, between the Tower of London and the western extremity of the Temple, adjoining Essex Street, in the county of Middlesex."

Rights of London, and other Places, exempted—Sect. 46. "Nothing in this act shall extend to deprive the lord mayor and commonalty and citizens of the city of London, of any right, privilege, or jurisdiction, heretofore lawfully claimed, exercised, or enjoyed, within the town and borough of Southwark, or the liberties thereof, or to prevent the said lord mayor for the time being, or such of the aldermen of the said city as have borne the office of mayoralty, or the recorder of the said city for the time being, from acting as justices of the peace within the said town and borough of Southwark, and the liberties thereof, in such and the like manner as they could or might have done in case this act had not been made; nor to deprive the lord mayor and commonalty and citizens of the said city of any right, privilege, immunity, or jurisdiction, which they have heretofore lawfully claimed, exercised, or enjoyed, upon the said river, or the lord mayor of the said city for the time being as conservator of the said river; nor to prevent the said lord mayor, and the said aldermen and recorder of the said city, from acting as justices of the peace upon the said river, or taking cognizance of offences committed upon or within the limits of the same, in such manner as they might or would have done in case this act had not been made."

Sect. 47 provides and enacts, "that nothing in this act shall extend to deprive the dean and chapter of the collegiate church of St. Peter, Westminster, or the high-steward or high-bailiff of the city and liberty of Westminster, for the time being, or their respective lawful deputies, of any rights, privileges, or jurisdictions, which they have heretofore lawfully claimed, exercised, or enjoyed, within the said city and liberty, in such and the like manner as they could or might have done in case this act had not been made."

Sect. 48 provides and enacts, "that nothing in this act contained shall extend

to prejudice or derogate from any of the rights, privileges, or authorities of the master, warden, and assistants of the guild, fraternity, or brotherhood, of the most glorious and undivided Trinity, and of St. Clement, in the parish of Deptford Strond, in the county of Kent."

6 Geo. 4, c. 21.

By sect. 49 it is enacted, "that this act shall commence and have effect from the expiration of the said recited act of the last session of Parliament, and shall continue and be in force for the term of seven years."

Commencement and continuance of act.

Sect. 50. This act is declared to be a public act. (f)

Public act.

II. Provisions of the 6 Geo. IV. c. 21.

By the 6 Geo. 4, c. 21, reciting, "that whereas, by an act passed in the third year of his present majesty's reign, intituled, 'An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Seven Years,' the yearly salary payable to each of the justices appointed under the said act is fixed at six hundred pounds; and whereas it is expedient to increase the said salary," it is enacted, "that it shall be lawful to pay to each of the justices appointed, or to be appointed, under the said act, such yearly salary as shall be directed by one of his majesty's principal secretaries of state, not exceeding the sum of eight hundred pounds, to commence from the 5th day of April, 1825."

3 G. 4, c. 55, s. 6.

Justices' salaries.

Sect. 2. "And whereas, by the said recited act, the chief magistrate of the public office in Bow Street is empowered to administer to the officers of the said office, and to the horse and foot patrol acting under the orders of the said chief magistrate, an oath duly to execute the office of constable within the counties of Middlesex, Surrey, Essex, and Kent, and each of the persons so sworn is empowered to act as a constable in the manner therein mentioned, and it is expedient to extend the powers of the persons so sworn, as hereinafter mentioned; be it therefore further enacted, that it shall and may be lawful for the chief magistrate of the said public office in Bow Street to administer to such persons respectively an oath duly to execute the office of a constable within the counties of Middlesex, Surrey, Essex, and Kent, and within the royal palaces of his majesty, his heirs and successors, and ten miles thereof; and that each of such persons being so sworn, and each of the officers of the said public office, and each of the horse and foot patrol already sworn under the said recited act, shall, from and after the passing of this act, have power to act as a constable for the said counties, and also within the said royal palaces, and ten miles thereof, and shall have all such powers and authorities, privileges and advantages, as any constable duly appointed now has, or hereafter may have, within his constablewick."

Bow-Street officers and patrol to have powers of constables within certain counties, and within the royal palaces, and ten miles thereof.

Sect. 3. "That all powers and authorities, privileges, advantages, exemptions, duties, obligations, and liabilities, by the said recited act conferred and imposed upon the magistrates of the said public office in Bow Street, and upon the clerks, constables, and others therein employed, and on the horse and foot patrol acting under the orders of the chief magistrate of that office, shall, in case of the removal of that office from the said street to any other street or place, be used and exercised, enjoyed and performed; by the magistrates, clerks, officers, patrol, and others respectively, at the office to be substituted for the said public office in Bow Street, in as full and ample manner, to all intents and purposes, as if such substituted office had been expressly named in the said recited act and this act."

In case of removal of Bow-Street Office, powers to continue.

Sect. 4. "That it shall be lawful for two of the justices appointed under the said recited act to any of the police-offices thereby established, upon the application of five of the inhabitants of any street or square, or of the proprietor of any place of public resort, within the limits of the bills of mortality, and the parishes therein enumerated, to appoint a competent number of persons, re-

Police magistrates may swear in street-keepers to act as constables.

(f) The 10 Geo. IV. c. 45, *post*, continues the provisions of the 3 Geo. IV. c. 55, and 6 Geo. IV. c. 21, until the 5th of July, 1832, and from thence to the end of the next session of Parliament.

3 Geo. 4, c. 53.

Neglecting
summons.

† Sic.

† Sic.

If money not
paid.

Distress.

Imprisonment.

Proviso for ju-
risdiction of
London, as to
work done on
the Thames, &c.And for rights of
city of London,
&c.And of the lord
mayor, as con-
servator, &c.And for the dean
and high steward
of Westminster.And for Trinity
House, &c.

terminated by the justices appointed to the Thames-police office, or any one of them, or any other justice within his jurisdiction; and every such justice is hereby empowered to summon before him any such master or commander of any vessel, or any such owner thereof, or his agent, or the owner, wharfinger, or occupier of any wharf or quay, or their respective agents, or any other employer; and, if any such master, commander, owner, wharfinger, occupier, agent, or employer, shall refuse or neglect to attend such summonses, then every such justice is hereby empowered to issue his warrant to bring such person summoned before him, to answer such complaint, and to examine upon oath any such bargemen, lightermen, waterman, † ballastman (other than any Trinity ballastman), coal-whipper, coal-porter, sailor, lumper, rigger, shipwright, caulker, or other labourer, or any other witness or witnesses, touching any such complaint or dispute, and to make such order for payment of so much wages to such bargemen, † lighterman, waterman, ballastman (other than any Trinity ballastman), coal-whipper, coal-porter, sailor, lumper, rigger, shipwright, caulker, or other labourer, as to such justice shall seem just and reasonable, provided that the sum ordered do not exceed £5, besides all reasonable costs attending the prosecution of the complaint, which costs the justice is empowered to order; and, in case of refusal to pay, or non-payment of any sum so ordered, by the space of twenty-four hours next after such determination, such justice may issue forth his warrant to levy the same, by distress and sale of the goods and chattels of the person ordered to pay the same, together with the charges of such distress and sale; and, if no sufficient distress shall be found, such justice shall commit the person ordered to make such payment to prison, for any time not exceeding one month, unless the sum so ordered shall be sooner paid; and every such order shall be final and conclusive, to all intents and purposes, and shall not be removable, by *certiorari* or otherwise, into any court whatsoever."

Jurisdiction of London, as to Work done on Thames, &c.—Sect. 45. "That nothing herein contained shall extend to authorize or empower any justice, except the lord mayor, aldermen, and recorder, of the city of London, for the time being, or some or one of them, to hear and determine any such differences, complaints, or disputes, as shall or may arise for or in respect of any employment or work done within the said city of London, or the suburbs and liberties thereof, or on board of any ship, hoy, barge, lighter, boat, or other vessel, lying or being on the north side of the river, between the Tower of London and the western extremity of the Temple, adjoining Essex Street, in the county of Middlesex."

Rights of London, and other Places, exempted—Sect. 46. "Nothing in this act shall extend to deprive the lord mayor and commonalty and citizens of the city of London, of any right, privilege, or jurisdiction, heretofore lawfully claimed, exercised, or enjoyed, within the town and borough of Southwark, or the liberties thereof, or to prevent the said lord mayor for the time being, or such of the aldermen of the said city as have borne the office of mayoralty, or the recorder of the said city for the time being, from acting as justices of the peace within the said town and borough of Southwark, and the liberties thereof, in such and the like manner as they could or might have done in case this act had not been made; nor to deprive the lord mayor and commonalty and citizens of the said city of any right, privilege, immunity, or jurisdiction, which they have heretofore lawfully claimed, exercised, or enjoyed, upon the said river, or the lord mayor of the said city for the time being as conservator of the said river; nor to prevent the said lord mayor, and the said aldermen and recorder of the said city, from acting as justices of the peace upon the said river, or taking cognizance of offences committed upon or within the limits of the same, in such manner as they might or would have done in case this act had not been made."

Sect. 47 provides and enacts, "that nothing in this act shall extend to deprive the dean and chapter of the collegiate church of St. Peter, Westminster, or the high-steward or high-bailiff of the city and liberty of Westminster, for the time being, or their respective lawful deputies, of any rights, privileges, or jurisdictions, which they have heretofore lawfully claimed, exercised, or enjoyed, within the said city and liberty, in such and the like manner as they could or might have done in case this act had not been made."

Sect. 48 provides and enacts, "that nothing in this act contained shall extend

to prejudice or derogate from any of the rights, privileges, or authorities of the master, warden, and assistants of the guild, fraternity, or brotherhood, of the most glorious and undivided Trinity, and of St. Clement, in the parish of Deptford Strand, in the county of Kent."

6 Geo. 4, c. 21.

By sect. 49 it is enacted, "that this act shall commence and have effect from the expiration of the said recited act of the last session of Parliament, and shall continue and be in force for the term of seven years."

Commencement and continuance of act.

Sect. 50. This act is declared to be a public act. (f)

Public act.

II. Provisions of the 6 Geo. IV. c. 21.

By the 6 Geo. 4, c. 21, reciting, "that whereas, by an act passed in the third year of his present majesty's reign, intituled, 'An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Seven Years,' the yearly salary payable to each of the justices appointed under the said act is fixed at six hundred pounds; and whereas it is expedient to increase the said salary," it is enacted, "that it shall be lawful to pay to each of the justices appointed, or to be appointed, under the said act, such yearly salary as shall be directed by one of his majesty's principal secretaries of state, not exceeding the sum of eight hundred pounds, to commence from the 5th day of April, 1825."

6 G. 4, c. 21, s. 4.

Justices' salaries.

Sect. 2. "And whereas, by the said recited act, the chief magistrate of the public office in Bow Street is empowered to administer to the officers of the said office, and to the horse and foot patrol acting under the orders of the said chief magistrate, an oath duly to execute the office of constable within the counties of Middlesex, Surrey, Essex, and Kent, and each of the persons so sworn is empowered to act as a constable in the manner therein mentioned, and it is expedient to extend the powers of the persons so sworn, as hereinafter mentioned; be it therefore further enacted, that it shall and may be lawful for the chief magistrate of the said public office in Bow Street to administer to such persons respectively an oath duly to execute the office of a constable within the counties of Middlesex, Surrey, Essex, and Kent, and within the royal palaces of his majesty, his heirs and successors, and ten miles thereof; and that each of such persons being so sworn, and each of the officers of the said public office, and each of the horse and foot patrol already sworn under the said recited act, shall, from and after the passing of this act, have power to act as a constable for the said counties, and also within the said royal palaces, and ten miles thereof, and shall have all such powers and authorities, privileges and advantages, as any constable duly appointed now has, or hereafter may have, within his constablewick.

Bow-Street officers and patrol to have powers of constables within certain counties, and within the royal palaces, and ten miles thereof.

Sect. 3. "That all powers and authorities, privileges, advantages, exemptions, duties, obligations, and liabilities, by the said recited act conferred and imposed upon the magistrates of the said public office in Bow Street, and upon the clerks, constables, and others therein employed, and on the horse and foot patrol acting under the orders of the chief magistrate of that office, shall, in case of the removal of that office from the said street to any other street or place, be used and exercised, enjoyed and performed; by the magistrates, clerks, officers, patrol, and others respectively, at the office to be substituted for the said public office in Bow Street, in as full and ample manner, to all intents and purposes, as if such substituted office had been expressly named in the said recited act and this act."

In case of removal of Bow-Street Office, powers to continue.

Sect. 4. "That it shall be lawful for two of the justices appointed under the said recited act to any of the police-offices thereby established, upon the application of five of the inhabitants of any street or square, or of the proprietor of any place of public resort, within the limits of the bills of mortality, and the parishes therein enumerated, to appoint a competent number of persons, re-

Police magistrates may swear in street-keepers to act as constables.

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6 Geo. 4, c. 21.

commended by such inhabitants, or such proprietor respectively, and approved of by such justices, to be constables, to keep the peace within such street or square, or such place of public resort, and the avenues leading thereto, for such period of time as such justices shall deem fit and necessary, and to administer an oath to every such constable duly to execute that office within the limits and for the period of time for which he shall be appointed; and every constable so sworn shall, within the limits and during the period for which he shall serve, have all such powers and authorities, privileges and advantages, as any constable duly appointed hath or shall have within his constableness, and shall be paid by the inhabitants or proprietor respectively, on whose application he shall be appointed, such wages as shall be deemed reasonable and adequate by the justices by whom he shall be appointed."

Wages.

Certain offenders may be adjudged to hard labour.

+ *Sic.*

Summons to appear at any place without the limits specified in recited act, void.

Offences punishable under 3 Geo. 4, c. 40, shall be punishable under the provisions of 5 Geo. 4, c. 83.

Sec. 5. "That whensoever any offender, convicted of a misdemeanor of a fraudulent nature under the said recited act, shall be adjudged to imprisonment in the house of correction, it shall be lawful for the convicting justices, if he shall so think fit, to adjudge that such offender shall be there kept to hard labour."

Sec. 6. "And, for preventing the evasion of that provision in the said recited act, whereby justices of the peace are prohibited, except in certain cases, from taking any fees within the limits of the bills of mortality, and certain parishes in the said act enumerated; be it further enacted, that every summons which shall, after the passing of this act, be issued by any justice of the peace of the counties of Middlesex and Surrey respectively, requiring any person residing within the said limits and parishes to appear at any place without those limits and parishes, to answer any information or complaint touching any matter arising within the said limits and parishes, shall be utterly void and of none effect; any law, custom, or usage to the contrary notwithstanding."

Sec. 7. "That every offence committed against the said recited act, and thereby made punishable under an act passed in the same session of Parliament, intituled, 'An Act for consolidating into one Act, and amending the Laws relating to Idle and Disorderly Persons, Rogues and Vagabonds, incorrigible Rogues, and other Vagrants, in England,' is and shall be punishable and punished under the provisions of an act passed in the last session of Parliament, intituled, 'An Act for the Punishment of Idle and Disorderly Persons, and Rogues, and Vagabonds, in that part of Great Britain called England;' and that the form of conviction prescribed by the said first-recited act shall and may be altered and adapted as the circumstances of the case shall require."

III. Provisions of the 10 Geo. IV. c. 44.

Establishment of New Police—“Whereas offences against property have of late increased in and near the metropolis; and the local establishments of nightly watch and nightly police have been found inadequate to the prevention and detection of crime, by reason of the frequent unfitness of the individuals employed, the insufficiency of their number, the limited sphere of their authority, and their want of connexion and co-operation with each other: and whereas it is expedient to substitute a new and more efficient system of police in lieu of such establishments of nightly watch and nightly police, within the limits hereinafter mentioned, and to constitute an office of police, which, acting under the immediate authority of one of his majesty's principal secretaries of state, shall direct and control the whole of such new system of police within those limits:” be it therefore enacted, “that it shall be lawful for his majesty to cause a new police-office to be established in the city of Westminster, and by warrant under his sign manual to appoint two fit persons as justices of the peace of the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and of all liberties therein, to execute the duties of a justice of the peace at the said office, and in all parts of those several counties, and the liberties therein, together with such other duties as shall be hereinafter specified, or as shall be from time to time directed by one of his majesty's principal secretaries of state, for the more efficient administration of the police within the limits here-

His majesty may establish a new police-office for the metropolis and the surrounding district, and may appoint two persons as justices, to conduct the business of the office, under the directions of a secretary of state.

inafter mentioned; and his majesty may remove either of the said justices, if he shall see occasion so to do, and may, upon any vacancy in the said office by death, removal, or otherwise, appoint another fit person as a justice of the peace of the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and of all liberties therein, to execute the duties aforesaid, in lieu of the person making such vacancy; and it shall be lawful for his majesty to appoint any person to be a justice of the peace by virtue of this act, and for such person, during the continuance of his appointment, to execute the duties of a justice of the peace for the several counties of Middlesex, Surrey, Hertford, Essex, and Kent, and for all liberties therein, although he may not have any such qualification by estate as is required by law in the case of any other person being a justice of the peace for any county: provided always, that no such person shall act as a justice of the peace at any court of general or quarter sessions, nor in any matter out of sessions, except for the preservation of the peace, the prevention of crimes, the detection and committal of offenders, and in carrying into execution the purposes of this act."

10 Geo. 4, c. 44.

The justices need not have any qualification of estate.

Proviso.

Oaths of Justices—Sect. 2. "Every person to be appointed a justice of the peace by virtue of this act shall, before he shall begin to execute the duties of his office, take the following oath before some justice or baron of one of his majesty's courts of record at Westminster; (that is to say,)

Oath to be taken by the justices.

"I, A. B., do swear, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute all the powers and duties of a justice of the peace, under and by virtue of an act passed in the tenth year of the reign of King George the Fourth, intituled, 'An Act for Improving the Police in and near the Metropolis.'"

Salary of Justices—Sect. 3. "It shall be lawful for his majesty to direct that an annual salary, not exceeding the sum of eight hundred pounds, shall be paid out of the consolidated fund of the United Kingdom of Great Britain and Ireland, to each of the justices to be appointed under this act, and that the same shall be payable quarterly.

Salary of the justices.

What Places to be subject to New Police—Sect. 4. "The whole of the city and liberties of Westminster, and such of the parishes, townships, precincts, and places in the counties of Middlesex, Surrey, and Kent, as are enumerated in the schedule to this act, shall be constituted, for the purposes of this act, into one district, to be called "The Metropolitan Police District;" and a sufficient number of fit and able men shall from time to time, by the directions of one of his majesty's principal secretaries of state, be appointed as a police force for the whole of such district, who shall be sworn in by one of the said justices to act as constables for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace; and the men so sworn shall, not only within the said district, but also within the counties of Middlesex, Surrey, Hertford, Essex, and Kent, and within all liberties therein, have all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities, as any constable duly appointed now has or hereafter may have within his constableness by virtue of the common law of this realm, or of any statutes made or to be made, and shall obey all such lawful commands as they may from time to time receive from any of the said justices for conducting themselves in the execution of their office."

Westminster, and parts of Middlesex, Surrey, and Kent, to be formed into one district, to be called "The Metropolitan Police District."

A police force for the whole district to be appointed.

Regulation for Management of Police—Sect. 5. "The said justices may from time to time, subject to the approbation of one of his majesty's principal secretaries of state, frame such orders and regulations as they shall deem expedient, relative to the general government of the men to be appointed members of the police force under this act; the places of their residence; the classification, rank, and particular service of the several members; their distribution and inspection; the description of arms, accoutrements, and other necessities to be furnished to them; and which of them shall be provided with horses for the performance of their duty; and all such other orders and regulations, relative to the said police force, as the said justices shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties; and the said justices may at any time suspend

The justices, subject to the approbation of a secretary of state, may make regulations for the management of the police force.

Police-men may be suspended or dismissed by the justices.

10 Geo. 4. c. 44.

otherwise unfit for the same; and when any man shall be so dismissed, or cease to belong to the said police force, all powers vested in him as a constable by virtue of this act shall immediately cease and determine."

Penalty on publicans harbouring police-men during the hours of duty.

Harbouring Police—Sect. 6. "If any victualler or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any man belonging to the said police force, or permit such man to abide or remain in his house, shop, room, or other place during any part of the time appointed for his being on duty, every such victualler or keeper as aforesaid, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as they shall think meet."

Powers of police.

Powers of Police—Sect. 7. "It shall be lawful for any man belonging to the said police force, during the time of his being on duty, to apprehend all loose, idle, and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs, (g) and all persons whom he shall find between sunset and the hour of eight in the forenoon lying in any highway, yard, or other place, or loitering therein, and not giving a satisfactory account of themselves, and to deliver any person so apprehended into the custody of the constable appointed under this act, who shall be in attendance at the nearest watch-house in order that such person may be secured until he can be brought before a justice of the peace, to be dealt with according to law, or may give bail for his appearance before a justice of the peace, if the constable shall deem it prudent to take bail, in the manner hereinafter mentioned."

Assaults on police men.

Assaults on Police—Sect. 8. "If any person shall assault or resist any person belonging to the said police force in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender, being convicted thereof before two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as the said justices shall think meet."

Constables attending at the watch houses in the night may take bail by recognizance from persons brought before them for petty misdemeanors; such recognizance to be conditioned for the appearance of the parties before a magistrate.

Police Constables, &c. empowered to take Bail at Night—Sect. 9. "Where any person charged with any petty misdemeanor shall be brought, without the warrant of a justice of the peace, into the custody of any constable appointed under this act, during his attendance in the night-time at any watchhouse within the metropolitan police district, it shall be lawful for such constable, if he shall deem it prudent, to take bail by recognizance, without any fee or reward, from such person, conditioned that such person shall appear for examination before a justice of the peace, at some place to be specified in the recognizance, at the hour of ten in the forenoon next after such recognizance shall be taken, unless that hour shall fall on a Sunday or on Christmas Day or Good Friday, and in that case at the like hour on the succeeding day; and every recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if the same had been taken before a justice of the peace; and the constable shall enter, in a book to be kept for that purpose in every watchhouse, the names, residence, and occupation of the party and his surety or sureties, if any, entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, and shall lay the same before such justice as shall be present at the time and place when and where the party is required to appear; and if the party does not appear at the time and place required, or within one hour after, the justice shall cause a record of the recognizance to be drawn up, to be signed by the constable, and shall return the same to the next general or quarter sessions of the peace, with a certificate at the back thereof, signed by such justice, that the party has not complied with the obligation therein contained; and the clerk of the peace shall make the like estreats and schedules of every such re-

In default of appearance recognizance to be forfeited.

Time of hearing may be postponed.

(g) See the case of *Cowles v. Dumber*, cited on the old act, 3 Geo. IV. c. 55, 1 M. & M. 37; 2 C. P. 566, S. C., do. a. 2, ante, 114.

cognizance as of recognizances forfeited in the sessions of the peace; and if the party not appearing shall apply, by any person on his behalf, to postpone the hearing of the charge against him, and the justice shall think fit to consent thereto, the justice shall be at liberty to enlarge the recognizance to such further time as he shall appoint; and when the matter shall be heard and determined, either by the dismissal of the complaint, or by binding the party over to answer the matter thereof at the sessions, or otherwise, the recognizance for the appearance of the party before a justice shall be discharged without fee or reward."

10 Geo. 4, c. 44.

Application of Monies raised for Purposes of Act—Sect. 10. "It shall be lawful for his majesty to appoint a proper person to receive all sums of money applicable to the purposes of this act, who shall be called 'The Receiver for the Metropolitan Police District;' and his majesty may remove any such receiver, if he shall see occasion so to do, and may upon any vacancy in that office, by death, removal, or otherwise, appoint another person to be such receiver; and the receiver for the time being shall give security to his majesty, in a bond, with two sureties, in such sum as the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland shall direct, such bond to be conditioned for the faithful performance of his duty by such receiver, and for the due application of all monies paid to him under this act; and the receiver for the time being shall receive all sums of money applicable to the purposes of this act, and shall keep an exact and particular account thereof, and shall immediately pay all monies, bills, and notes by him received under this act into the hands of the governor and company of the Bank of England; and the same shall be placed to an account in the books of the said governor and company, which shall be entitled 'The Account of the Public Monies of the Receiver for the Metropolitan Police District,' inserting the name of the receiver for the time being; and the said receiver shall draw out of the Bank from time to time such sums of money as may be necessary for the payment of the salaries, wages, and allowances to be paid as hereinafter mentioned to the persons belonging to the police force appointed under this act, and also for the payment of all other charges and expenses in carrying this act into execution; and every draft or order for money on the Bank of England drawn by the receiver shall be countersigned by one of the justices appointed under this act; and all drafts and orders so drawn and countersigned, but not otherwise, shall be a sufficient authority to the Bank to pay the amount thereof to the persons named in them, or to the bearers of them."

His majesty may appoint a person to be the receiver of all monies applicable to the purposes of this act, who shall give security.

The money to be placed in the Bank of England, and drawn out by the receiver.

Receiver's Account—Sect. 11. "The receiver shall account for the due application of all monies so to be drawn by him out of the Bank of England, and shall, once in every six months, and oftener, if required by one of his majesty's principal secretaries of state, make out and sign a full and particular account of all monies which shall have been received by him under this act, and how much thereof hath been paid by him, and for what purposes, together with proper vouchers for the receipts and payments; and such account shall be delivered, for the purpose of being examined and audited, either to the commissioners for auditing the public accounts of this kingdom, or to any other person or persons whom such principal secretary of state may from time to time direct; and the receiver, if directed to account before the said commissioners, shall be subject to the same regulations and penalties in that respect as any public accountant."

Receiver's drafts to be countersigned.

Receiver's accounts to be audited.

Receiver's Salary—Sect. 12. "The receiver, out of the monies so received by him, shall be allowed a yearly salary not exceeding seven hundred pounds, to be payable quarterly; and the receiver, out of the same monies, shall from time to time pay to the persons belonging to the police force appointed under this act, such salaries, wages, and allowances, and at such periods, as one of his majesty's principal secretaries of state shall direct, and also any extraordinary expenses which they shall appear to have necessarily incurred in apprehending offenders or dismissing from his employment any man belonging to the said police force whom they shall think remiss for negligent in the discharge of his duty, or

Salary of receiver.

Salaries and wages of policemen to be regulated by the secretary of state.

10 Geo. 4, c. 44.

Rewards for activity, and superannuation allowances.

and executing the orders of either of the justices appointed under this act, such expenses being first examined and approved of by one of the said justices; and the receiver shall likewise pay any further sums which such principal secretary of state shall direct to be paid to any of the persons belonging to the said police force, as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service; and he shall also pay all other charges and expenses which such principal secretary of state shall direct to be paid for carrying this act into execution."

Upon the death or removal of receiver, the balance of cash at the Bank shall be transferred to his successor.

Removal of Receivers, &c.]—Sect. 13. "Upon the death, resignation, or removal of any receiver appointed under this act, the balance of cash for which he shall at that time have credit on his account, as receiver, with the governor and company of the Bank of England, shall, as soon as a successor shall be appointed to the office of receiver, actually vest in such successor, and shall be immediately transferred to the account of such successor, to be applied for the purposes of this act; and the receiver for the time being is hereby required to issue his drafts or orders, countersigned as aforesaid, for all unsatisfied charges and demands payable out of the monies in the Bank, although the same shall have accrued in the time of any former receiver."

Upon the removal of receiver, his successor may sue for any balance remaining in his hands.

Sect. 14. "That if any person having resigned or having been removed from the office of receiver shall neglect, within twenty-one days after notice for such purpose, to account for and pay to any succeeding receiver all such sums of money as shall remain in his hands applicable to the purposes of this act, it shall be lawful for the receiver for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person, with double costs of suit, in any of his majesty's courts of record at Westminster, by action of debt; in which action it shall be sufficient for such receiver to declare as for money had and received to the use of such receiver for the purposes of this act; and the defendant in the action may, at the discretion of any judge of such court, be held to special bail in such competent sum as the judge shall order; and the court in which the action shall be brought may, at the instance of either of the parties, refer the account in dispute in a summary manner to be audited by any officer of the court or other fit person, who may examine both plaintiff and defendant upon oath (which oath the said referee shall have power to administer); and upon the report of such referee, unless either of the parties shall show good cause to the contrary, the court may make a rule, either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the court shall appear reasonable; or the court may order judgment to be entered up by confession, for such sum as upon the report shall appear to be due."

Mode of proceeding.

Special bail. Court may refer the accounts to an officer or arbitrator.

Mode of proceeding against the representatives of a deceased receiver.

Sect. 15. "That in case of the death of any person during the time that he shall be holding the office of receiver, or after he shall have resigned or been removed from such office, the receiver for the time being may, in his own proper name only, or by his name and description of office, sue for and recover from the executors or administrators of such person deceased all such sums of money as shall have been remaining in his hands applicable to the purposes of this act, by an action of debt in any of his majesty's courts of record at Westminster; in which action it shall be sufficient for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this act, or that the deceased died possessed of money had and received for the purposes of this act, whereby an action hath accrued to the plaintiff to demand and have the same from such executors or administrators; and the like action may be brought against any executors or administrators of executors or administrators; and in all such actions the defendant or defendants may plead in like manner, and avail themselves of the like matters in defence, as in any action founded upon simple contracts of the original testator or intestate; and the court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as is herein-before men-

tioned; and in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on, by any receiver by virtue of this act, proof of his acting in the execution of the office of receiver shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions, or the parties against whom such proceedings shall be instituted or carried on."

19 Geo. 4, c. 44.
Proof of the receiver's official character.

Sect. 16. "That the receiver for the time being shall make all such contracts and disbursements as shall be necessary for purchasing or renting any land or buildings, or for erecting, fitting up, furnishing, or repairing any buildings, for the purposes of this act, in such manner as one of his majesty's principal secretaries of state shall direct; and of all lands and buildings so to be purchased or rented, and of the fixtures and furniture thereof, and of all goods and chattels whatsoever to be from time to time held or purchased for the purposes of this act, the property acquired therein shall be vested in the receiver for the time being, in whom also shall be vested the property of all watch-houses, watch-boxes, arms, accoutrements, and other necessities to be given up as hereinafter mentioned; and the receiver for the time being may, by the directions of such principal secretary of state, sell, assign, or dispose of the whole or any part of any such property as aforesaid, and shall execute all such lawful matters for carrying this act into execution as such principal secretary of state shall from time to time direct."

The receiver shall contract for any land or buildings that may be required.

The property to be vested in him.

Sect. 17. "That it shall be lawful for all bodies corporate, and also for all commissioners, vestrymen, or trustees for public purposes, and for tenants for life or in tail, and for the husbands, guardians, trustees, committees, or attorneys of such of the proprietors or persons interested in any lands or buildings required for the purposes of this act as shall by reason of any legal disability or of absence beyond the seas be incapable of acting for themselves, to contract and agree with the receiver for the time being, either for the absolute sale of such lands or buildings, or for a lease thereof for such period as the receiver shall require, and to convey, demise, or grant the same to the receiver in trust for the purposes of this act; and all such contracts, sales, conveyances, leases, and grants shall be valid and effectual in law to all intents and purposes; and in case any body corporate, commissioners, vestrymen, trustees, or other persons hereby authorized to contract on behalf of themselves or others as aforesaid, shall neglect or refuse to agree with, or by reason of disability or absence shall be prevented from agreeing with the receiver for the sale or lease of any land or buildings required by him, or in case the proprietors or persons interested therein cannot be found or known, or shall not produce and evince a clear title to the land or buildings so to be purchased or rented, or to the interest they shall claim therein, to the satisfaction of the receiver, in every such case all the provisions contained in an act passed in the fifth year of his present majesty's reign, intituled 'An Act for more effectually Paving, Lighting, Watching, Cleansing, and Regulating the Regent's Park, together with the New Street from the Regent's Park to Pall Mall, and the New Streets and Improvement in the Neighbourhood of Parliament Street and Privy Gardens, and for maintaining a convenient Sewage for the same,' with regard to the valuation of estates and interests by a jury, the conclusive effect of the verdict of the jury, and all matters preparatory to, concomitant with, and consequent or contingent upon the valuation by a jury, shall, so far as the same are or can be applicable, be applied and extended to the valuation of any land or buildings required for the purposes of this act, in as full and ample a manner, to all intents and purposes, as if those provisions had been repeated and expressly re-enacted in this act; and all such matters as by those provisions of the said act are authorized or required to be done by the sheriff of Middlesex and by a jury of Middlesex, or by the high bailiff of Westminster or his deputy and by a jury of Westminster, shall, under this act, be done by the sheriff and a jury of Middlesex, if the premises to be valued are situate in Middlesex, and by the high bailiff or his deputy and a jury of Westminster, if the premises are situate in Westminster; and all such matters as by those provisions of the said act are authorized or required to be done by the sheriff and a jury of the county of Middlesex, shall, if the premises to be valued are

Corporations and others empowered to sell land to the receiver.

In case of disagreement, &c. the value shall be assessed by a jury.

10 Geo. 4, c. 44.

situate in any other county, be done under this act by the sheriff of such other county and by a jury qualified to try causes at nisi prius in such other county; and all such matters as by those provisions of the said act are authorized or required to be done by the commissioners therein mentioned shall, under this act, be done by the receiver for the time being.

No Justice, &c.
under this act to
sit in Parliament.

Justice of Peace, under the Act, not to sit in Parliament—Sect. 18. "No justice of the peace or receiver appointed by virtue of this act shall, during the continuance of such appointment, be capable of being elected, or of sitting as a member of the House of Commons; and no justice, receiver, or person belonging to the police force appointed by virtue of this act shall, during the time that he shall continue in any such office, or within six calendar months after he shall have quitted the same, be capable of giving his vote for the election of a member to serve in Parliament for the counties of Middlesex, Surrey, Hertford, Essex, or Kent, or for any city or borough within the metropolitan police district, nor shall, by word, message, writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving, his vote for the choice of any person to be a member to serve in Parliament for any such county, city, or borough; and if any such justice, receiver, or person belonging to the police force shall offend therein, he shall forfeit the sum of 100*l.*, to be recovered, by any person who will sue for the same, by action of debt, to be commenced within six calendar months after the commission of the offence; and one moiety of the sum so recovered shall be paid to the informer, and the other moiety thereof to the receiver appointed under this act, to be by him added to and applied as part of the funds for the purposes of the police under this act: provided always, that nothing in this enactment contained shall subject any such justice, receiver, or person belonging to the police force, to any penalty for any act done by him at or concerning any of the said elections in the discharge of his official duty."

Penalty, 100*l.*

Proviso.

The present watch in each parish, &c. in the metropolitan district, shall continue until it shall be notified to such parish that the new police is appointed, and then all watch-boxes, arms, &c. shall be given up to the new police, and the present watch-rate shall cease. (h)

Old Watch, how far to continue, &c.—Sect. 19. "And whereas some time must elapse before a new police force can be appointed throughout the whole of the metropolitan police district: it is therefore enacted, "that the watchmen and others of the night police already appointed in any parish, township, precinct, or place within the limits of the said district, may, notwithstanding the passing of this act, continue to act in their respective appointments, and shall be subject to the same authorities as heretofore, until it shall be notified by the justices appointed under this act, that a new police will be ready to undertake the charge of any such parish, township, precinct, or place, on some day to be specified in the notice of the said justices; which notice shall be fixed on the door of the church or chapel, or some other conspicuous part of the parish, township, precinct, or place, on two Sundays previous to the day named for the same to take effect; and upon the day so named the night watch and other night police appointed within any such parish, township, precinct, or place, previously to or independently of this act, shall be discontinued; and all powers and authorities for assessing and levying any rate in any such parish, township, precinct, or place, the whole or any part of which rate shall be applicable to the payment of the night watch or night police, or any expenses incident thereto, shall, so far as such powers and authorities relate to any whole rate so applicable, or to that part of any rate which shall be so applicable, cease and determine; and all watch-houses and watch-boxes in any such parish, township, precinct, or place, and all arms, accoutrements, and other necessities provided at the public expense for the night watch and night police therein, shall be given up to such persons as shall be named by the said justices, for the use and accommodation of the police to be appointed under this act; and in case any person having the charge, control, or possession of any watch-house, watch-box, arms, accoutrements, or necessities as aforesaid, shall neglect or refuse to give up the same as hereinbefore required, every such offender, being convicted thereof before any two justices of the

Penalty for not giving up the watch-boxes, &c.

(h) See the provisions of the 3 Geo. IV. c. 55, s. 26, 27, 28, *ante*, 115, 116.

peace, shall for every such offence forfeit and pay, over and above the value of the property not given up, such sum, not exceeding five pounds, as the said justices shall think meet: and where there shall be any building in any such parish, township, precinct, or place as aforesaid, a part only of which building shall have been heretofore used as a watch-house, such part shall be given up every day from the hour of four in the afternoon until the hour of nine in the forenoon, for the use and accommodation of the police force to be appointed under this act; and if any person having the charge, control, or possession of any such building shall neglect or refuse to give up such part thereof for the purposes aforesaid, or to permit free access thereto or egress therefrom, during any portion of the time above prescribed, every such offender, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding five pounds, as the said justices shall think meet."

18 Geo. 4, c. 14.

Watch-rates—Sect. 20 provides, "that any rate for defraying the expenses of the night watch or night police in any parish, township, precinct, or place, made previous to the day on which the police force to be appointed under this act shall undertake the charge thereof, shall be levied and collected in the same manner as if this act had not been passed:" it provides also, "that nothing herein contained shall be deemed to affect or alter any powers or authorities for assessing and levying any rate in any such parish, township, precinct, or place, so far as such rate may relate to paving, lighting, cleansing, or any other object, except the night watch, night police, or any expenses incident thereto."

Proviso for watch-rates already imposed.

This act not to affect the rates for paving, lighting, &c.

Outstanding Debts—Sect. 21. "And whereas there are certain parishes, townships, precincts, and places in the metropolitan police district, in which monies have been borrowed or advanced, and debts contracted for the building of watch-houses, and for various expenses connected with the night watch and night police therein, and such monies and debts remain unpaid, and it is expedient that the same should be discharged:" it is enacted, "that all such monies and debts in any parish, township, precinct, or place, of which the police to be appointed under this act shall undertake the charge, shall, notwithstanding any thing hereinbefore contained, be chargeable upon the rates out of which such monies or debts have been heretofore in part paid, or would have been payable if this act had not been passed; and such rates shall be from time to time assessed and levied for the payment of such monies and debts, until the same shall be entirely discharged and satisfied,"

Provision for outstanding debts.

Watch-boxes—Sect. 22. "That the justices appointed under this act, subject to the approbation of one of his majesty's principal secretaries of state, may order such a number of watch-boxes as they shall from time to time think fit to be placed or fixed in such parts of the highways in any of the parishes, townships, precincts, or places within the metropolitan police district, as the said justices shall deem most convenient."

Power to set up watch-boxes.

Police Rates, Assessments, &c.—Sect. 23. "That as soon as the police to be appointed under this act shall take charge of any parish, township, precinct, or place, whether parochial or extra-parochial, within the metropolitan police district, it shall be lawful for the justices appointed under this act forthwith, and so from time to time, subject to the approbation of one of his majesty's principal secretaries of state, to issue a warrant under their hands to the overseers of the poor of every such parish, township, precinct, or place; by which warrant they shall command the said overseers, out of the money collected for the relief of the poor in such parish, township, precinct, or place, to pay the amount mentioned in the warrant for the purposes of the police under this act, or to levy such amount as a part of the rate for the relief of the poor in such parish, township, precinct, or place, and that the overseers shall pay over the amount mentioned in the warrant, to the receiver to be appointed under this act, within forty days from the delivery of such warrant to any one of the overseers: provided always, that the sum to be paid for the purposes of the police under this act shall not exceed in the whole in any one year the

The overseers in every parish, &c. in the metropolitan district shall be ordered to levy a police rate upon all persons liable to the poor rate.

Not to exceed 8d. in the pound in any one year,

10 Geo. 4, c. 44.
according to the
valuation for
county rate.

Who to be deem-
ed overseers
within this act.

Overseers shall
collect the police
rate in the same
manner as the
poor rate.

Receipt of the re-
ceiver shall be a
sufficient dis-
charge.

Overseers, on
non-payment of
the police rate,
shall be dis-
trained upon;

and in default
of sufficient dis-
tress, the arrears
may be re-levied
on the parish.

In case of de-
fault, &c. occa-
sional overseers
may be appointed
for levying the
police rate.

In property occu-
pied by ambas-
sadors, the land-
lord shall pay the
police rate.

rate of eightpence in the pound on the full and fair annual value of all property rateable for the relief of the poor within such parish, township, precinct, or place, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the county rate; and that the warrant shall specify the rate in the pound at which the sum mentioned therein shall be computed."

Sect. 24. "That where any persons other than the overseers of the poor shall, by virtue of any office or appointment, be authorized and required to make and collect or cause to be collected the rate for the relief of the poor in any parish, township, precinct, or place within the metropolitan police district, such persons, by whatsoever title they may be called, shall be deemed to be overseers of the poor within the meaning of this act, and to be included under and denoted by the words 'overseers of the poor,' for all the purposes of this act, as fully as if they were commonly called or known by the title of overseers of the poor."

Sect. 25. "That the overseers of the poor of every parish, township, precinct, or place within the metropolitan police district, to whom any such warrant as aforesaid shall be issued, shall pay the amount mentioned in the warrant out of any money in their hands collected for the relief of the poor; and if there be no such money in their hands, or an insufficient sum, they shall levy the amount required as a part of the rate for the relief of the poor, and shall for that purpose proceed in the same manner, and have the same powers, remedies, and privileges as for levying money for the relief of the poor; and such overseers shall pay to the receiver the amount mentioned in the warrant within the time specified for that purpose, and at the time of making any payment to the receiver shall deliver to him a note in writing signed by them, specifying the amount so paid, which note shall be kept by the receiver as a voucher for his receipt of that particular amount; and the receipt of the receiver, specifying the amount paid to him by the overseers, shall be a sufficient discharge to the overseers for such amount, and shall be allowed as such in passing their accounts with their respective parishes, townships, precincts, or places."

Sect. 26. "That, in case the amount ordered by such warrant as aforesaid to be paid by the overseers in any parish, township, precinct, or place in the metropolitan police district, shall not be paid to the receiver within the time specified for that purpose in the warrant, the justices appointed under this act, upon complaint thereof made to them by the receiver, may issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers; and in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish, township, precinct, or place for the purposes of the police under this act, and shall be collected by the like methods; and the said justices, in case of any default or neglect of any overseer or overseers, or in any other case in which one of his majesty's principal secretaries of state shall so direct, may appoint two or more persons to act as overseers of the poor within any parish, township, precinct, or place in the metropolitan police district, for levying the money for the purposes of the police under this act; and the persons so appointed shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such money, as if they had been appointed overseers of the poor by virtue of any law or laws now in force."

Sect. 27. "That where any messuages, lands, tenements, or hereditaments within the metropolitan police district shall be occupied by any ambassador, agent, or other public minister of any foreign prince or state, or by the servant of any such ambassador, agent, or minister, or by any other person not liable by law to the payment of the poor's rate, all such money as would by virtue of this act have been payable for the purposes of the police by the occupier of such messuages, lands, tenements, or hereditaments, if such occupier had been rateable to the relief of the poor, shall in such case be paid by and recoverable

from the landlord or owner thereof, who shall for this purpose be deemed the occupier thereof, and shall be liable to all such proceedings for non-payment of such money as any person is by law liable to for non-payment of poor rate.

10 Geo. 4, c. 41.

Sect. 28. "That any justice appointed under this act, or any person having an order for that purpose under the hand of any such justice, may inspect any county rate made or to be made for any county, any part of which shall be situate within the metropolitan police district, and may also inspect any returns concerning all or any of the parishes, townships, precincts, and places, whether parochial or extra-parochial in the said district, delivered or to be delivered in pursuance of any of the acts relating to county rates, and may take copies or extracts from any such rates or returns without payment of any fee or reward; and if any person having the custody of any such rate or return shall wilfully neglect or refuse to permit any such justice or other person to inspect the same, or to take copies or extracts from the same, within two days after such order shall have been produced and shown to him, or a copy thereof left at his usual place of abode, he shall, on conviction thereof before any two justices of the peace, forfeit and pay for every such offence such sum, not exceeding ten pounds, as they shall think meet."

Right of inspecting county rates, &c.

Sect. 29. "That an account of all monies received and expended for the purposes of this act, made up to the 31st of December in each year, shall annually be laid before both Houses of Parliament within thirty days thereafter, if Parliament be then sitting, or within thirty days after the first meeting of Parliament subsequent to the 31st of December, and such account shall specify the total sum charged upon and received from every parish, township, precinct, and place for the purposes of this act, the rate in the pound at which such sum shall have been computed, and the total annual value of the entire property in every such parish, township, precinct, and place, as such total annual value shall be stated in the last valuation for the time being acted upon in assessing the county rate; and such account shall also specify the different heads of expenditure for the purposes of the police, and the amount actually expended under each."

Accounts to be laid before Parliament annually.

Sect. 30. "And whereas it is expedient to provide for those precincts and places in the metropolitan police district in which no rate is made for the relief of the poor, or in which property may be deemed not to be rateable thereto:" it is enacted, "that the respective inhabitants and occupiers of all messuages, lands, tenements, and hereditaments in any precinct or place, whether parochial or extra-parochial, in the metropolitan police district, although such messuages, lands, tenements, and hereditaments may not be rated to the relief of the poor, or may be deemed not to be rateable thereto, shall nevertheless be liable to contribute to the expenses of the police under this act, as if the property so inhabited or occupied were rateable and rated to the relief of the poor; and the justices appointed under this act may from time to time, by warrant under their hands, appoint a proper person to be an assessor, for the purpose of assessing the full and fair annual value of such property, and rating the same to a police rate to be levied under this act: provided always, that the sum to be levied as a police rate shall not exceed in the whole in any one year the rate of eightpence in the pound on the full and fair annual value of such property; and such assessor shall, within forty days after the delivery to him of the warrant of his appointment, make, sign, and return to the said justices an assessment for the precinct or place named in such warrant; and the assessment shall be fairly written in a book, and shall specify, in different columns, the names of the respective inhabitants or occupiers of all messuages, lands, tenements, and hereditaments, the full and fair annual value of the same, and the amount of police rate charged on the inhabitants or occupiers thereof, and, when the premises shall be unoccupied, the full and fair annual value thereof to let; and every such assessor shall be allowed for his trouble and expenses such remuneration as one of his majesty's principal secretaries of state shall direct, and the same shall be paid out of the amount of the police rate which shall be collected after such assessment."

Provision for assessing and levying police rate in those places within the metropolitan district where there is no poor rate.

Mode of making the assessment.

Allowance to assessors.

Sect. 31. "That when such assessment shall have been allowed by the justices appointed under this act, public notice of such assessment, and of the

When assessment is made, notice thereof shall be

Police of the Metropolis.

given, and all persons included in the assessment shall have liberty to inspect it, &c.

Penalty for refusing such inspection.

Collection of the police rate charged in such assessment.

Appeal against assessment.

The assessment may be altered to relieve the appellant, without altering any other part of it.

place where the same may be inspected, shall be given by fixing such notice on the door of the church or chapel, or some other conspicuous part of the precinct or place to which such assessment shall relate, upon the Sunday next or next but one after the same shall have been so allowed; and any person in whose custody such assessment may be shall permit every inhabitant or occupier of property included in such assessment to inspect the same, and to make any extracts therefrom, without payment of any fee or reward; and if such person shall wilfully neglect or refuse to permit any such inhabitant or occupier to inspect such assessment, or to make any extract therefrom, he shall, on conviction thereof, before any two justices of the peace, forfeit and pay for every such offence such sum, not exceeding five pounds, as the justices shall think meet."

Sect. 32 enacts, "that the justices appointed under this act shall from time to time nominate one or more person or persons for levying the amount of police rate charged in every such assessment, who shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such police rate, as if he or they were an overseer or overseers of the poor in a precinct or place rated to the relief of the poor, and shall pay over the amount of such police rate to the receiver to be appointed under this act, or, in default thereof, shall be proceeded against in the same manner as overseers are by this act to be proceeded against for non-payment."

Sect. 33 provides and enacts, "that if any person, who shall have paid the amount of police rate charged upon him by the assessment made by an assessor appointed under this act, shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not rateable under this act, or that it assesses his rateable property beyond its full and fair annual value, or that any person or persons is or are omitted out of such assessment, or that the property of any person or persons is assessed below its full and fair annual value, the person so aggrieved may appeal to the next court of general or quarter sessions which shall be holden for the county in which the cause of appeal shall have arisen, not less than twenty-one days after public notice of such assessment shall have been given, as herein-before mentioned: provided that the person so intending to appeal shall give to the receiver to be appointed under this act a notice in writing of such appeal, and of the cause and matter thereof, ten clear days at the least before such sessions; and shall also, within three days after his notice of appeal, enter into a recognizance before some justice of the peace of the county, with two sufficient sureties, conditioned to try such appeal at the said sessions, and to abide the order of the court thereupon, and to pay such costs as shall be by the court awarded; and, in case such person shall appeal on the ground that any person or persons is or are omitted out of the assessment, or that the property of any person or persons is assessed below its full and fair annual value, the party so appealing shall not only give such notice of appeal to the receiver, and enter into such recognizances as aforesaid, but shall also give a like notice of appeal to the person or persons so interested in the event of such appeal, as aforesaid, and shall enter into a like recognizance within the times herein-before respectively mentioned; and the person or persons so interested shall, if he or they shall desire it, be heard upon the appeal; and the justices of the peace at such sessions, or some adjournment thereof, upon due proof of the notice having been given, and of the recognizance having been entered into, as aforesaid, shall hear and determine the matter of the appeal in a summary manner, and shall make such order therein, with or without costs to either party, as the said justices shall think proper; and, in case the said justices shall think the appellant entitled to relief, they shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him which he was not liable to pay to be returned to him; and, in case he shall have appealed on the ground that any person or persons is or are omitted out of the assessment, the said justices may order the name or names of such person or persons to be inserted in the assessment, and to be therein rated at such amount as they shall deem just; and, in case the appellant

shall have appealed on the ground that the property of any person or persons is assessed below its full and fair annual value, the said justices may order the amount at which such person or persons is or are rated in the assessment to be altered in such manner as they shall deem just; and the proper officer of the court shall, in each of the cases aforesaid, forthwith amend the assessment accordingly, but the assessment shall not be quashed or altered with respect to any other persons named therein; and the determination of the justices at any such sessions or adjournment shall be final and conclusive."

19 Geo. 4, c. 44.

Other Parishes may be subject to Police System].—Sect. 34. "And whereas circumstances may occur which may render it expedient that the provisions of this act should be extended to other places, in addition to the places which are enumerated in the schedule to this act:" be it therefore enacted, "that it shall be lawful for his majesty from time to time, by the advice of his privy council, to order that any parishes, townships, precincts, and places, whether parochial or extra-parochial, in the counties of Middlesex, Surrey, Hertford, Essex, and Kent, of which any part shall be situate within twelve miles of Charing Cross, in the city of Westminster, shall, after a certain day to be named in such order, be added to and form part of the metropolitan police district, and be placed under the charge of a police to be appointed under this act; and all provisions herein-before contained, with regard to the discontinuance of the night-watch and night-police appointed previously to or independently of this act, the cessation of their powers, the cessation of the powers for levying watch rates, the giving up of watch-houses, or parts of buildings used as watch-houses, watch-boxes, arms, accoutrements, and other necessities, together with the penalties for neglect or refusal in that behalf, the exception as to any watch rate previously made, and the power to assess and levy rates for debts previously incurred, and also all provisions herein-before contained with regard to the levying of money for the purposes of the police, the levying thereof as a part of the poor's rate, the amount of such levy, the payment thereof to the receiver, the proceedings against overseers for default, the addition of arrears to the next levy, the appointment of persons to act as overseers, and all provisions with regard to the assessment of property, and the rating of the same to a police rate by assessors appointed under this act, and with regard to the powers and duties of such assessors, as well as all other matters whatsoever previous to, concomitant with, or consequent or contingent upon, such assessment, shall apply and be enforced in every parish, township, precinct, and place, which shall by order in council be added to the metropolitan police district, as fully and effectually as if such parish, township, precinct, or place, had been originally included in such district by virtue of this act."

His majesty may hereafter, by order in council, direct any parishes within a certain distance of the metropolis to be added to the district; and such parishes, when so added, shall be subject to all the provisions of this act.

Misnomers of Parishes, &c.].—Sect. 35 enacts, "that no misnomer or inaccurate description of any parish, township, precinct, or place, mentioned in the schedule to this act, or in any order in council to be made as aforesaid, shall prevent or in anywise affect the execution of this act, but that this act and every part thereof shall apply and be enforced in every such parish, township, precinct, and place, as fully and effectually, to all intents and purposes, as if the same had been correctly named and described in such schedule or order in council, provided that the same be designated therein to common intent and understanding; and united parishes shall, for all the purposes of this act, be deemed to be included under and denoted by the word 'parish.'"

Misnomers not to affect the execution of the act.

Proceedings for, and Application of Penalties, Offences, &c.].—Sect. 36. "And for the more effectual prosecution of offences punishable upon summary conviction by virtue of this act, be it enacted, that where any person shall be charged, on the oath of a credible witness, with any such offence before any justice of the peace, the justice may summon the person charged to appear before any two justices of the peace, at a time and place to be named in such summons; and if the person charged shall not appear accordingly, then (upon proof of the due service of the summons, by delivering a copy thereof to such person, or by delivering a copy to the wife or servant, or some inmate of the

Summons, &c. for offences punishable on summary conviction under this act.

10 Geo. 4, c. 44.

Limitation of time for such proceedings.

Application of penalties.

Persons paying police rate may give evidence or act as justices.

Scale of imprisonment for non-payment of penalties.

Form of conviction.

No certiorari, &c.

As to informality in warrants, &c.

family of such person, at his usual place of abode), the justices before whom he ought to have appeared may either proceed to hear and determine the case *ex parte*, or may issue their warrant for apprehending such person, and bringing him before them: provided always, that the prosecution for any offence punishable upon summary conviction, by virtue of this act, shall be commenced within three calendar months after the commission of the offence, and not otherwise."

Sect. 37. "That every sum which by any justices of the peace shall be adjudged to be paid for any offence against this act shall be paid to the receiver appointed under this act, to be by him added to and applied as part of the funds for the purposes of the police under this act; and no person, although liable to the payment of money for the maintenance of the police under this act, shall, by reason thereof, or by reason of the application of any penalty to the use of the police funds, be deemed to be an incompetent witness before any court or justice or justices of the peace in any proceeding whatever for any offence against this act, or in any matter relating to the money to be raised for the maintenance of the police, or in any other matter mentioned in this act; and no justice of the peace shall be disabled from acting in the execution of this act by reason of his being liable to the payment of any money for the maintenance of the police under this act."

Sect. 38. "That the justices of the peace, by whom any person shall be convicted and adjudged to pay any sum of money for any offence against this act, may adjudge that such person shall pay the same, either immediately or within such period as they shall think fit; and that in default of payment at the time appointed, he shall be imprisoned in the common gaol or house of correction for any term not exceeding two calendar months, where the sum to be paid shall not exceed five pounds, and for any term not exceeding four calendar months, where the sum shall not exceed ten pounds, and for any term not exceeding six calendar months in any other case; the imprisonment to cease in each of the cases aforesaid upon payment of the sum due."

Form of Conviction—Sect. 39. "That the justices before whom any person shall be summarily convicted of any offence against this act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case may require; that is to say,

" } Be it remembered, that on the day of in the year of our Lord to wit, } , at in the county of , A. B. is convicted before us [naming the justices], two of his majesty's justices of the peace for the said county, for that he the said A. B. did [specify the offence, and the time and place when and where the same was committed, as the case may be]; and we the said justices adjudge the said A. B., for his said offence, to forfeit and pay the sum of [here state the amount of the sum to be paid]; and in default of immediate payment of the said sum, to be imprisoned in the for the space of , unless the said sum shall be sooner paid; [or, and we order that the said sum shall be paid by the said A. B. on or before the day of ; and in default of payment on or before that day, we adjudge the said A. B. to be imprisoned in the for the space of , unless the said sum shall be sooner paid;] and we direct that the said sum shall be paid to , the receiver for the Metropolitan Police District, to be by him applied according to the act passed in the tenth year of the reign of his [late] Majesty King George the Fourth, intituled, 'An Act for improving the Police in and near the Metropolis.' Given under our hands this day and year first above mentioned."

Certiorari—Sect. 40. "That no conviction, order, warrant, or other matter, made or purporting to be made by virtue of this act, shall be quashed for want of form, or be removed by certiorari or otherwise into any of his majesty's courts of record at Westminster; and no warrant of commitment shall be held void by reason of any defect therein, provided that it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same; and where any distress shall be made for levying any money by virtue of this act, the distress itself shall not be deemed

unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto: nor shall the party distraining be deemed a trespasser *ab initio*, on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for the special damage, if any, in action upon the case."

10 Geo. 4, c. 64.

Actions against Persons acting under Police Act]—Sect. 41. And, for the protection of persons acting in the execution of this act, it is enacted "that all actions and prosecutions to be commenced against any person for any thing done in pursuance of this act shall be laid and tried in the county where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon."

Venue in proceedings against persons acting under this act;

Notice of action;

General issue;

Tender of amends, &c.

General Clauses]—Sect. 42 provides, "that nothing in this act contained shall affect or alter an act passed in the third year of the reign of his present majesty, intituled, 'An Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Seven Years;' or an act passed in the sixth year of the present reign, intituled, 'An Act to amend an Act for the more effectual Administration of the Office of Justice of the Peace in and near the Metropolis.'"

This act not to supersede 3 Geo. 4, c. 85, or 6 Geo. 4, c. 21.

Sect. 43. "That this act may be amended, altered, or repealed by any act to be passed in the present session of Parliament."

Act may be altered this session.

Sect. 44. "That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded."

Public act.

SCHEDULE to which this Act refers.

A List of the Parishes, Townships, Precincts, and Places referred to by the Act as constituting "The Metropolitan Police District."

COUNTY OF MIDDLESEX.

City and Liberties of Westminster.

The parishes of St. Margaret and St. John the Evangelist.
The parish of St. Martin in the Fields.
The parish of St. George, Hanover Square.
The parish of St. James.
The parish of St. Mary-le-Strand, as well within the Liberty of Westminster as within the Duchy Liberty.

The parish of St. Clement Danes, as well within the Liberty of Westminster as within the Duchy Liberty.
The parish of St. Paul, Covent Garden.
The parish of St. Ann, in the liberty of Westminster.
Whitehall Gardens, whether the same be Parochial or Extra-parochial.
Whitehall, whether the same be Parochial or Extra-parochial.
Richmond Terrace, whether the same be Parochial or Extra-parochial.

10 Geo. 4, c. 45.

The Close of the Collegiate Church of St. Peter.

Holborn Division.

The parishes of St. Giles in the Fields and St. George, Bloomsbury.
The parishes of St. Andrew, Holborn, and St. George the Martyr.
The liberty of Saffron Hill, Hatton Garden, and Ely Rents.
The liberty of the Rolls.
The parish of St. Pancras.
The parish of St. John, Hampstead.
The parish of St. Mary-le-Bone.
The parish of Paddington.
The precinct of the Savoy.

Finsbury Division.

The parish of St. Luke.
The liberty of Glasshouse Yard.
The parish of St. Sepulchre.
The parish of St. James, Clerkenwell, including both districts of St. James and St. John.
The parish of St. Mary, Islington.
The parish of St. Mary, Stoke Newington.
The Charter House.

Tower Division.

The parish of St. Mary, Whitechapel.
The parish of Christchurch.
The parish of St. Leonard, Shoreditch.
The liberty of Norton Folgate.
The parish of St. John, Hackney.
The parish of St. Matthew, Bethnal Green.
The hamlet of Mile End Old Town.
The hamlet of Mile End New Town.
The parish of St. Mary, Stratford, Bow.
The parish of Bromley St. Leonard.
The parish of All Saints, Poplar.
The parish of St. Ann, Limehouse.
The hamlet of Ratcliffe.
The parish of St. Paul, Shadwell.
The parish of St. George in the East.
The parish of St. John, Wapping.
The liberty of East Smithfield.
The precinct of St. Catherine.

The Liberty of His Majesty's Tower of London, consisting of

The liberty of the Old Artillery Ground.
The parish of Trinity, Minories.

The Old Tower precinct.
The precinct of the Tower Within.
The precinct of Wellclose.

Kensington Division.

The parish of Kensington.
The parish of St. Luke, Chelsea.
The parish of Fulham.
The hamlet of Hammersmith.
The parish of Chiswick.
The parish of Ealing.
The parish of Acton.

Brentford Division.

The township of New Brentford.

Extra-parochial Places.

Lincoln's Inn.
Gray's Inn.
Staple's Inn.
That part of Furnival's Inn in the County of Middlesex.
Ely Place.

KENT.

The parish of St. Paul, Deptford.
The parish of St. Nicholas, Deptford.
The parish of Greenwich.

SURREY.

The parish of Barnes.
The parish of Battersea.
The hamlet of Penge.
The parish of Bermondsey.
The parish of Camberwell.
The parish of Clapham.
The parish of Lambeth.
The parish of Newington.
The parish of Putney.
The parish of Rotherhithe.
The parish of Streatham.
The parish of Tooting.
The parish of Wandsworth.
The parish of Christchurch.
Clink liberty.
The hamlet of Hatcham, in the parish of Deptford.

BOROUGH OF SOUTHWARK.

The parish of St. George.
The parish of St. Saviour.
The parish of St. John.
The parish of St. Olave.
The parish of St. Thomas.

IV. Provisions of the 10 Geo. IV. c. 45.

By the 10 Geo. IV. c. 45, entitled, "An Act to continue, until the 5th day of July, 1832, an Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis," reciting the 3 Geo. IV. c. 55, and the 6 Geo. IV. c. 21, it is enacted, "that the said act of the third year of this reign, as the same is amended by the said act of the sixth year of this reign, and by this act, shall continue and be in force until the 5th day of July, 1832, and from thence until the end of the then next session of Parliament."

Recited act, 3 Geo. 4, c. 55, as amended by 6 Geo. 4, c. 21, and this act, continued.

Sect. 2. "And whereas, in case of the establishment of a new police-office for the administration of the police in and near the metropolis, it may be expedient that the horse and foot patrol, now acting under the orders of the chief magistrate of the public office in Bow Street, should be placed under the orders of such new police-office; be it therefore enacted, that it shall be lawful for one of his majesty's principal secretaries of state to direct that such horse and foot patrol shall be under the orders of the justices of such new police-office, when the same shall be established; and that any of such justices shall have power to administer, to all persons who now do or hereafter may belong to such horse and foot patrol, an oath to the same effect as the chief magistrate of the office in Bow Street is empowered to administer, by the said recited act of the sixth year of this reign; and the persons taking such oath shall have power to act as constables within the same counties and places as are mentioned in the said last-mentioned act, and shall, in such counties and places, have all such powers, authorities, privileges, and advantages, as any constable now has, or hereafter may have, within his constableness; and it shall be lawful for such principal secretary of state to direct that the receiver appointed under the said recited act of the third year of this reign shall, out of the monies issued to him out of the consolidated fund, pay over in each year to such person as may be appointed receiver of monies, applicable to the purposes of such new police, such sum of money as may now by law be applied to the maintenance of the said horse and foot patrol; the same to be hereafter applied towards defraying the charges and expenses of the said horse and foot patrol, after the same shall be placed under the orders of such new police-office."

10 Geo. 4, c. 45.

Secretary of state may direct that the horse and foot patrol be placed under the new police-office, when established.

Sect. 3. "And whereas it is expedient to remove all doubts respecting the application of such penalties and forfeitures as may be recovered before any justice or justices at any of the offices mentioned in the said act of the third year of this reign; be it therefore enacted, that where, by any act or acts, any penalties or forfeitures, or shares of penalties or forfeitures, are or shall be recoverable in a summary manner before any justice or justices of the peace, and by such act or acts respectively the same are or shall be limited, and made payable to his majesty, or to any body corporate, or to any person or persons whatsoever, save and except the informer who shall sue for the same, or any party aggrieved, in every such case, the same, if recovered or adjudged before any justice or justices at any of the said offices, shall, notwithstanding anything in such act or acts respectively contained, be recovered for, and adjudged to be paid to, the receiver for the time being, mentioned in the said act of the third year of this reign, to be by him applied for the purposes of the said act; and the same shall not, in any case, be recovered by, or adjudged to be paid to, any other person than the said receiver, unless such person be the informer or the party aggrieved; and each of the justices at the said offices, and their clerks, and the said receiver, are hereby released and indemnified from all claims and demands, except those of his majesty, in respect of any penalties or forfeitures, or shares of penalties or forfeitures, which, before the passing of this act, shall have been received at any of the said offices, and claimed and retained for or on behalf of the said receiver."

For removing doubts as to the application of penalties and forfeitures recovered before any of the justices.

Poll-Books, Evidence by. See Evidence. Vol. II. p. 38, 39.

Polygamy.

See Marriage. Vol. III.

[4 Geo. IV. c. 91; 9 Geo. IV. c. 31, s. 22.]

I. *The Offence of, and Punishment*, 140.

II. *Indictment for*, 144.

III. *Evidence as to*, 145.

IV. *Forms*, 146.

I. The Offence of, and Punishment.

Bigamy and
polygamy.

BIGAMY is where a man has two wives successively; Polygamy, where he hath several wives at the same time; but they are commonly confounded one with the other.

9 Geo. 4, c. 31.

By the 9 Geo. IV. c. 31, s. 22, it is enacted, "that if any person, being married, shall marry any other person, during the life of the former husband or wife, whether the second marriage shall have taken place in England or elsewhere, every such offender, and every person counselling, aiding, or abetting such offender, shall be guilty of felony, and, being convicted thereof, shall be liable to be transported beyond the seas, for the term of seven years, or to be imprisoned, with or without hard labour, in the common gaol, or house of correction, for any term not exceeding two years; and any such offence may be dealt with, inquired of, tried, determined, and punished, in the county where the offender shall be apprehended, or be in custody, as if the offence had been actually committed in that county: provided always, that nothing herein contained shall extend to any second marriage contracted out of England, by any other than a *subject of his majesty*, or to any person marrying a second time, whose husband or wife shall have been continually *absent* from such person for the space of seven years then last past, and shall *not have been known* by such person to be living within that time, or shall extend to any person who, at the time of such second marriage, shall have been *divorced* from the bond of the first marriage, or to any person whose former marriage shall have been declared *void* by the sentence of any court of competent jurisdiction."

Punishment.

Place of trial.
Exceptions.

By this act, all the prior statutes relative to this offence are repealed.

General clauses.

See the general clauses of the 9 Geo. IV. c. 31, affecting all its provisions, *ante*, *Malicious Injuries to Persons*, Vol. III.

Alterations of
previous laws.

Before this act, if the second marriage took place out of the jurisdiction of the law of England, it was not punishable under that law. Moreover, as the law then stood, a person whose consort had been abroad for seven years, though *known* to be living, might marry again with impunity; and it was also held, under one of the former statutes, that a person divorced *a mens et thoro* only, was exempt from the penalties of bigamy. 1 *East*, P. C. 466. It will be seen the present act has made many improvements in these respects. See *Collyer's Statutes*, 28; *Carr. C. L.* 251, 2.

Voidable marriage.

Being Married].—This extends to a marriage *de facto*, or voidable by reason of consanguinity, affinity, or such like; for it is a marriage in judgment of law until it be avoided; and, therefore, though neither marriage be *de jure*, yet they are within this statute. 3 *Inst.* 88.

Void marriage.

But it is otherwise if the marriage be not voidable merely, but *void*: as, for instance, if a woman marry A., and in the lifetime of A. marry B.; and after the death of A., and whilst B. is alive, she marry C.; she cannot be indicted for bigamy in her marriage with C., because her marriage with B. was a mere nullity. 1 *Hale*, 693, *post*, 143.

So, the marriage of an idiot, or of a lunatic not in a lucid interval, is void, because he is deemed in law incapable of entering into such a contract. 1 *Bl. Com.* 438, 439. So, if a boy under fourteen, or a girl under twelve, contract matrimony, it is void, unless both husband and wife consent to and confirm the marriage, after the minor arrives at the age of consent. *Co. Lit.* 79.

OFFENCE AND
PUNISHMENT.

The 9 Geo. IV. c. 31, s. 22, it will be seen, contains exceptions as to certain marriages.

If the first marriage is by banns, it is no objection that the parties did not reside in the parish where the banns were published and the marriage was celebrated. *R. v. Hind, R. & M. C. N. P.* 253. (a)

By the Marriage Act (4 Geo. IV. c. 76, s. 22, *Marriage*, Vol. III.) certain marriages are declared null and void.

Certain marriages
void.

The marriage acts do not extend to Jews or Quakers, but they include all other dissenters; the marriages of the latter must, therefore, be proved in the ordinary manner. It seems that, to prove a Jewish marriage, it is not enough to produce witnesses who were present at the ceremony in the synagogue, but that the written contract between the parties should be produced, and the execution of it proved. *Horn v. Noel, 1 Camp.* 61. On the trial of a plea of coverture, *Lord Kenyon* permitted a Jewess, who had been the former wife of the supposed husband of the defendant, to give parol evidence of her own divorce in a foreign country, according to the custom of the Jews there. *Ganer v. Ganesborough, Peake, C. N. P.* 17; but see *R. v. Lolley, infra*.

Jews' or Quakers'
marriages.

Foreign Marriages].—A marriage celebrated out of England, according to the *lex loci*, is recognized in this country as a valid marriage. If the first marriage were in England, it is not a valid defence to prove a divorce *a vinculo matrimonii* out of England before the second marriage, founded on grounds (in that case, adultery) on which a marriage cannot be dissolved *a vinculo matrimonii* in England. *R. v. Lolley, Russ. & Ry., C. C. R.* 237; and see *Gainer v. Ganesborough, supra*.

Foreign mar-
riages.

A marriage in Scotland, between English subjects, according to the Scotch law, is good in our courts. *Dalrymple v. Dalrymple, 2 Hagg.* 54; *Harford v. Morris, ib.* 430. A marriage in Scotland, by an infant, who was an English subject, without consent of parents or guardians, was held good by the Court of Delegates. *Compton v. Bearcroft, B. N. P.* 113; see the 58 Geo. 3, c. 84.

Scotch marriage.

A marriage in Ireland, by a clergyman of the established church, is good, though it takes place in a private room, without any special license. *Smith v. Maxwell, 1 C. & P.* 271. As to the marriage of minors, in Ireland, it is, by

Irish marriage.

(a) *R. v. John Hind, otherwise John Ashmead Hind, Durham Sum. Ass.* 1813, *MS. C. C. R.* 3 *Burn, J.* 24 *ed.* The prisoner was tried before Chambre, J., at Durham Summer Assizes, 1813, upon an indictment for bigamy. The first marriage was in Yorkshire, and took place in April, 1812. The second was at the parish of Houghton-le Spring, in the county of Durham, in December, 1812, the first wife being still living. A doubt arose upon the validity of the first marriage, under the following circumstances:—The parties resided in the parish of Marrick, in the county of York. The parish church of Marrick, at the times of publishing the banns and celebrating the marriage, was under repair, and wholly or in a great measure unroofed, and no service was performed there. The banns were therefore published at the church of Grinton, the parish adjoining

to Marrick, and the marriage also was celebrated at Grinton. The proofs in all other respects were full, and the prisoner was convicted and received sentence; but as the statute makes no express provision for the publication of banns and the celebration of marriages under such publication, elsewhere than in the parishes where the parties reside (except when such residence is in extra-parochial places), the case was submitted for the opinion of the judges, upon the question of the validity of the first marriage. See the 26 Geo. II. c. 33, ss. 1, 5, and 8. On the 13th of November, 1813, eleven judges assembled, and all agreed that the tenth section of this act, which had not been adverted to, put an end to the doubt. Conviction right. See the 4 Geo. IV. c. 76, s. 13, and 5 Geo. IV. c. 32; *Marriage*, Vol. III.

OFFENCE AND
PUNISHMENT.

the Irish stat. 9 Geo. II. c. 11, enacted, "That any marriage of a person under twenty-one, without the consent of the father or guardians, shall be void; but if no such suit be commenced *within one year after the marriage*, it shall be good. Therefore, in the case of a prisoner indicted for bigamy, where it appeared that the first marriage, which was by license, was celebrated in Ireland when he was under twenty-one, and that his father did not consent, this was held to be no defence, as more than a year had elapsed from the time of the marriage. *R. v. Jacobs, cor. Twelve Js. 1826; R. v. Riordan, cor. Twelve Js. 1828; Carr. C. L. 255.*

At the Ennis assizes, 1815, a person was tried, before the lord chief baron, for bigamy. In 1806, he was married by a Catholic priest to his first wife, who was an Irish Catholic, the prisoner *stating that he was a Catholic*. In 1815, he married his second wife, he then passing for a Protestant. This marriage was celebrated by a clergyman of the established church. The prisoner's counsel contended, that as the prisoner was in fact a Protestant at the time of the first marriage, it was void, as every marriage of a Catholic and a Protestant, by a Catholic priest, would be; and witnesses were called to show that, up to the time of the first marriage, the prisoner always went to church, and was considered a Protestant. The lord chief baron said, that the law was correctly stated by the prisoner's counsel, and left it to the jury to say whether they did not consider the prisoner to be a Catholic at the time of the first marriage. The jury found that he was so, and convicted him. *R. v. Hanley, 1815, Carr. C. L. 254; see the 21 & 22 Geo. III. c. 25; 19 Geo. II. c. 13.*

French marriage.

Les Cinq Codes contain the following provisions respecting marriage. *Code Civil, Art. 63*:—"Before celebration of marriage, the officer of the civil state shall make two publications at eight days' interval, on *Sunday*, before the door of the town-hall. Such publications, and the act of them to be drawn up, shall set forth the prenomen, names, professions, and domiciles of the future couple, their state, either of full age or minority, and the prenomen, names, professions, and domiciles of their fathers and mothers. The act shall set forth moreover the days, places, and hours, where the publications shall have been made; it shall be inscribed upon a register by itself, which shall be marked and certified in manner prescribed by article 41 (b), and deposited, at the end of each year, in the registry of the tribunal of the district." *Art. 64*.—"An extract of the act of publication shall be affixed at the door of the town-hall, and shall remain so during the eight days' interval between the one and the other publication. The marriage cannot be celebrated before the third day after, and exclusive of that of the second publication." *Art. 68*.—"In case of opposition, the officer of the civil state may not celebrate the marriage before his receipt of the dismissal, under pain of a fine of three hundred francs and all damages." *Art. 74*.—"The marriages shall be celebrated in the township where one of the couple shall be domiciled. Such domicile, as to marriage, shall be established by *six months' continued habitation* in the same township." In the case of *Lacon v. Higgins, D. & R. N. P. C. 40, Stark. 78, M. Nettement*, the French vice-consul, resident in London, deposed as follows:—"Marriages celebrated in France contrary to the articles 63, 64, and 74, of the Code Civil, are absolutely null and void, and a marriage in violation of these articles is, in fact, no marriage at all; and the issue of such marriages are bastardized. A marriage between British subjects, if solemnized according to the law of England, at the British ambassador's, is recognized as valid in France; but then it must be registered by the ambassador, to render it operative; but if the parties are not married at the British ambassador's, they must comply with the law of France in like manner as French subjects. And British subjects, *after a residence in France of six months*, may be married in the same manner as French subjects; but at the ambassador's they may be married without having resided six months in France. And even if persons lived together, and were acknowledged as

(b) *Art. 41*. "The registers shall be numbered from first to last, and each leaf shall be signed by the president of the tribunal of First Instance, or by the judge supplying his place."

man and wife, that circumstance would not avail, if the legality of the marriage came afterwards into question." In that case, two British subjects, who had been previously resident in Paris, went to Versailles to be married. The ceremony was performed at a hotel, by a clergyman of the church of England, in the presence of two witnesses. The clergyman gave a written certificate of the marriage, but that was not produced. After this marriage, the parties lived together, and were received every where as man and wife. It was also stated, that British subjects resident in Paris were usually married at the British ambassador's, where a register of marriages solemnized there is regularly kept. Upon these facts, and the evidence of M. Nettement (above stated), and a reference to the articles of the Code Civil, Abbott, C. J., said, "I am clearly of opinion that, according to the law of France, this marriage is invalid, and consequently must be so considered in an English court of justice." *Carr. C. L. 257.*

In the case of *Latour v. Teesdale*, 8 *Tawn*. 830, a marriage between two British subjects, solemnized by a Catholic priest, at Madras, followed by cohabitation, was held valid, though there had been no license from the governor, which it had been, before then, the uniform custom to obtain. And Gibbs, C. J., said, "British subjects, settled at Madras, are governed by the laws of this country, which they carry with them, and are unaffected by the law of the natives. What is called the Marriage Act does not follow subjects to foreign settlements; and the question, therefore, is, whether it would have been a valid marriage here before that act passed." And his lordship lays down, that "a marriage between British subjects, celebrated in a British settlement, according to the laws of this country, as they existed before the Marriage Act," (a) is valid.

The 4 Geo. IV. c. 91, enacts, "that all marriages, solemnized by a minister of the church of England, in the chapel or house of any British ambassador or minister, residing within the country to the court of which he is accredited, or in the chapel belonging to any British factory abroad, or in the house of any British subject residing at such factory; and all marriages solemnized within the British lines, by any chaplain or officer, or other person officiating under the orders of the commanding officer of a British army serving abroad, shall be deemed valid." A marriage abroad, of a British subject, attached to a British army, which then had military possession of the place, is valid, if it would have been a valid marriage in England before the Marriage Act. *R. v. Brampton*, 10 *East*, 282.

Indian or colonial marriages.

4 Geo. 4, c. 91.
Marriages in ambassadors' houses, British factories, or in places of which the British government has military possession.

Shall marry any other Person during the Life of the Former Husband or Wife shall be Felony—A. married B. in Holland, and afterwards in the same country married C., in B's lifetime; B. died, and then living C., A. married D. in England. This was holden not to be within the act; because the marriage with C. was simply void. But, if B. had been living, it would have been felony to have married D. in England. *R. v. Lady Madison*, 1 *Hale*, 693, 1 *East's P. C.* 466.

Former consort alive.

But though the first marriage be voidable, as by reason of consanguinity or the like, yet, being a marriage in judgment of law, and subsisting in fact at the time, till it be avoided, a second marriage would be within the act: such second marriage, however, is merely void. 1 *East's P. C.* 466; 3 *Inst.* 88.

In *R. v. William Allison*, alias *William Wilkinson*, *Russ. & R. C. C.* 109; 1 *Russ. C. & M.* 207; the prisoner was tried before *Chambre, J.*, at the York Lent assizes, 1806, upon an indictment for bigamy, in marrying Ann Epton, on the 23d May, 1804, Jane, his former wife, being then living. It was proved by Thomas Pape, with whom the prisoner formerly lived as servant, that he was present at the celebration of the marriage between the prisoner and Jane Chaplin, at the parish church of Ulroome, on the 27th of February, 1798. They were married by the curate of the parish. The prisoner quitted the service of the witness at the following May Day, and he had not known much of the parties since that time; but Jane was living on the 8th of October, 1805, on which day he saw her. Another witness proved that he was present at the prisoner's second marriage with Ann Epton; they were married at the parish church of Ottringham, by the curate of the parish, on Whit Wednesday, 1804, the prisoner then

(a) This, and some of the other cases, 4 Geo. IV. c. 76, only applies to England, as that did. *Carr. C. L.* 259. See Geo. II.; but the last Marriage Act, title Marriage, Vol. III.

INDICTMENT. going by the name of Wilkinson; the witness was there merely from curiosity. They lived together afterwards as man and wife. Jane, the first wife, died on the 1st of December, 1805. The jury convicted the prisoner; but *Chambre, J.*, respite the judgment, upon a doubt whether this evidence, without any proof of the registration of either marriage or of any license or publication of banns, was sufficient to support a conviction. All the judges, except Lord *Ellenborough*, who was not present, in Easter Term, 1806, held the conviction right. And see *Mary Nowood's case*, *East's P. C.* 470; *Morris v. Miller*, 4 *Burr.* 2057.

II. Indictment for.

Indictment.

The indictment must state the two marriages, and aver that the former consort was alive at the time of the second marriage. In the *Duchess of Kingston's case*, the first count stated generally that the defendant, on such a day, &c., being then married, and then the wife of A. J. H., with force and arms, at, &c., did feloniously marry E. P., &c., the said A. J. H. being then alive, &c. The second count stated the time and place of the first as well as the second marriage. When the trial is in the county where the party was apprehended, there is an additional averment of that fact. 1 *East's P. C.* 469.

Venue.

We have already noticed the provision of the 9 Geo. IV. c. 31, s. 22, as to allowing the venue to be in the county where the offender was apprehended, or is in custody, *ante*, p. 140.

As to the County where the Offender was apprehended—This, according to the resolution in *Lord Digby's case*, may be in the place where the party is taken, which is the place where he is imprisoned. And it is only cumulative; for he may be indicted where the second marriage was, though he be never apprehended; and so may be outlawed. 1 *Hale*, 694; 1 *Russ.* 289, 290; *Hutt.* 131.

Where the prisoner, having been apprehended for another offence, is detained in the same county for bigamy, the detainer is such an apprehension as will warrant the indicting him in that county. *R. v. James Jordan*, otherwise *James Weaver*, *Russ. & R. C. C.* 48; 1 *Russ. C. & M.* 192. The prisoner was tried before *Lawrence, J.*, at the summer assizes for the county of Worcester, 1802, on an indictment charging him with felony, in marrying, on the 7th of June, 1802, one Elizabeth Lane, in the parish of St. Clement's, in the county of the city of Worcester, Mary Taylor, his former wife, being then living, and that he was apprehended for the felony aforesaid at the parish of Astley, in the county of Worcester. The facts of both marriages were proved; and that the prisoner was apprehended in the county of Worcester on a charge of stealing two hammers of one William Collins, and that, being in the house of correction on that charge, a bill of indictment was found against him for this bigamy at the quarter sessions, and, on the bill being found, he was detained by an order of that court. It appeared further in evidence that he was a bastard, and married Mary Taylor before he was of the age of 21 years, and when he was about 20 years old.

The counsel for the prisoner made two objections to his conviction—Firstly. That an indictment could be preferred against him for this offence only in the county where the second marriage was, or in some other county where he was apprehended for that offence, whereas the defendant was apprehended in the county of the city of Worcester, not for this bigamy, but for a larceny. And, if that were otherwise, the prisoner could not be convicted on this indictment, as it charged he was apprehended in the county for this felony, which was not proved, as his apprehension was for a larceny. Secondly. That this was not a case within the 1 Jac. I. c. 11, there being a provision in the third section of that statute that it shall not extend to any person for or by reason of any former marriage had within age of consent, which age was insisted, since the 26 Geo. II. c. 33, to be twenty-one, and not, as at the time of passing the statute, fourteen in males and twelve in females. The jury found the prisoner guilty, but the learned judge reserved these points for the consideration of the judges. In Hilary Term, 1803, the judges determined the conviction to be right, being of opinion upon the first point, that as the prisoner was in custody on a criminal charge, he was liable to be tried where he was imprisoned. See *Lord Digby's case*, *Hutt.* 131, upon stat. 3 Jac. I. c. 4, and also *Forsyth's case*, 2 *Leach*, 826.

III. Evidence.

Proof of the marriages.

In respect to the manner of proving the two marriages, the first must be duly established to be valid, according to the rites and customs of the country in which it was celebrated. 1 *East's P. C.* 469; *per Bayley, J., Smith v. Huson, Deleg. T.* 1811, citing a case reserved for the opinion of the judges, K. B., M. 1803; 1 *Phil. Evid.* 287.

Where the first marriage, which was with a Roman-Catholic woman, was by a Romish priest in England, not according to the ritual of the church of England, and the ceremony was performed in Latin, but the witnesses, not understanding that language, could not swear that the ceremony of marriage according to the church of Rome was read, the defendant was acquitted. (d) But Lord Chief Justice Willes, who tried him, seemed to be of opinion that a marriage by a priest of the church of Rome was a good marriage if the ceremony according to that church could be proved,—namely, the words of the contracting part of it. But this was before the Marriage Act. *Lyon's case, Old Bailey, Dec.* 1738; 1 *East's P. C.* 469; see *Fielding's case*, 14 *How. St. Tr.* 1328.

If the marriage was celebrated in this country, it may be proved by the production of the register of the marriage, or an examined copy of it, together with some proof, either direct or presumptive, of the identity of the parties; *Arch. C. L.* 294; *ante*, 91; Vol. II. p. 49. And if the marriage were by license, and it appear that either of the parties were a minor at the time, the prosecutor must further prove that the marriage was solemnized with the consent of the father, guardian, or mother of the minor, as required by the Marriage Act. *R. v. Bridgewater*, and *R. v. Butler*, 1 *Russ.* 294; *R. & R.* 61, S. C.; *per Bayley, J., in Smith v. Huson*, 1 *Phil.* 287; *Arch. C. L.* 294. The marriage may be proved by some person who was present at it; and in that case it is not necessary to prove the registration, or license, or banns. *R. v. Allison, Russ. & Ry. C. C. R.* 109; *ante*, 143, S. C.

The law will not presume marriage in cases of bigamy, as it will in civil cases. *Smith v. Huson*, 1 *Phil.* 287.

If the marriage was celebrated abroad, it may be proved by any person who was present at it; and such circumstances should also be proved, from which the jury may presume that it was a valid marriage according to the laws of the country in which it was celebrated. Proof that the ceremony was performed by a person appearing and officiating as a priest, and that it was understood by the parties to be the marriage ceremony according to the rites and custom of the foreign country, would be sufficient presumptive evidence of it, (see *R. v. Bampton*, 10 *East*, 282), so as to throw upon the defendant the onus of impugning its validity. See *Arch. C. L.* 294; and as to proof of foreign laws, see Vol. II. p. 49. The law of France as to marriage, was proved by production of a book purporting to contain the code of France, and proved by oral testimony to contain the law of France; the book purporting to have been published at the royal printing-office, which was (according to the statement of the witness) authorized to print the laws of France by the government. *Lacon v. Higgins*, 3 *Stark. R.* 178. As to foreign registers, see Vol. II. p. 38.

How far the acknowledgment of the defendant upon the subject of his marriage is sufficient evidence of the fact, may admit of some doubt. In *True-man's case* it was held, that proof of the prisoner's cohabiting with and acknowledging himself married to a former wife, then living, such assertion being backed by his producing to the witness a copy of the proceeding in a Scotch court against him and his wife for having contracted the marriage improperly (the marriage, however, being still good according to that law), was sufficient evidence of the first marriage; and, upon such evidence, together with due proof of the second marriage, the prisoner was convicted. The point being reserved for the opinion of the judges, all of them (with the exception of *Per-ryn, B.* and *Buller, J.* who were absent), held the conviction proper. Two of

How far the acknowledgment of the defendant is evidence.

(d) The second marriage was by a clergyman of the established church.

FORMS.

them observed that this did not rest upon cohabitation and bare acknowledgment; for the defendant had backed his assertion by the production of the copy of the proceedings: but some of the judges thought that the acknowledgment alone would have been sufficient, and that the paper produced in evidence was only a confirmation of such acknowledgment. *Truman's case*, *Nottingham Spring Ass.* 1795; 1 *East's P. C.* 470.

With respect to the admission of a bare acknowledgment in cases of this nature, Mr. East says (1 *P. C.* 471), it may be difficult to say that it is not evidence to go to the jury, like the acknowledgment of any other matter in *pais*, where it is made by a party to his own prejudice at the time. But it must be admitted that it may, under circumstances, be entitled to little or no weight; for such acknowledgments, made without consideration of the consequences, and palpably for other purposes at the time, are scarcely deserving of that name, in the sense in which acknowledgments are received as evidence; more especially if made before the second marriage, or upon occasions when, in truth, they cannot be said to be to the party's own prejudice, nor so conceived by him at the time.

As to proving the averment of the party being apprehended in the county where the venue is laid, see *ante*, 144.

First wife cannot be a witness.

The first and true wife is not to be allowed as a witness against the husband, nor *vice versâ*; but it seemeth clear that the second wife may be admitted to prove the second marriage, being not so much as his wife *de facto*. 1 *Hale*, 693; 4 *Blac. C.* 164; 1 *Phil. E.* 78; 2 *Chit. C. L.* 719; *ante*, Vol. II. 67.

IV. Forms.

(No. 1.)

Commitment for bigamy.

Commencement as usual, as *ante*, p. 71, No. 1.] —, on, &c. at, &c. feloniously and unlawfully did marry and take to wife one E. F., C. B., his former wife, to whom the said A. B. was previously married, being then alive: against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, as *ante*, No. , to the end.]

(No. 2.)

Commitment for polygamy. (f)

County of , } To the keeper of his majesty's gaol at , in the said
to wit. } county.

Receive into your custody, in the said gaol; and there safely keep, until he shall be discharged by due course of law, the body of A. O., herewith sent you, and charged before me, W. S., Esq., one of his majesty's justices of the peace in and for the said county, on the oaths of C. D., E. F., and others, for that he, the said A. O., on the day of , in the year of our Lord 18 , at the parish of , in the county of , did marry one G. H., spinster, and her, the said G. H., then and there had for his wife; and that the said A. O. afterwards, to wit, on the day of , in the year aforesaid, in the parish aforesaid, feloniously did marry and take to wife one L. S., spinster, the said G. H., his former wife, being then living, against the form of the statute in that case made and provided; the said C. D. having also made oath before me, the said justice, that the said A. O. was apprehended and taken for the said felony, in the parish of , in the said county of . Given under my hand and seal, this day of , one thousand eight hundred and .

(No. 3.)

Indictment for bigamy.

As to Venue, see *ante*, 144.] — to wit. The jurors for our lord the king upon their oath present, that C. D., late of, &c. on, &c. at the parish of , in the county of , did marry one E. F., spinster, and her, the said E. F., then and there had for his wife; and that the said C. D. afterwards, and whilst he was so married to the

said E. F. as aforesaid, to wit, on, &c. at the parish of , in the county of , feloniously and unlawfully did marry and take to wife one G. H., and to her the said C. D. was then and there married, the said E. F., his former wife, being then alive; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. And the jurors aforesaid, upon their oath aforesaid, do further present, that the said C. D. afterwards, to wit, on, &c. was apprehended and taken for the felony aforesaid, at the parish of in the county of aforesaid.

Bonds. See **Fish.** Vol. II. **Malicious Injury to Property.**
Vol. III.

Popery.

I. *General Observations*, p. 147.

II. *Toleration of Catholics*, p. 147 to 157.

[31 Geo. III. c. 32; 43 Geo. III. c. 30; 53 Geo. III. c. 128; 10 Geo. IV. c. 7.]

III. *Miscellaneous Statutory Provisions against Papists and Popery*, p. 157.

[7 Rich. II. c. 12; 12 Rich. II. c. 15; 13 Rich. II. st. 2, c. 2; 7 Hen. IV. c. 8; 3 Hen. V. st. 2, c. IV; 5 Eliz. c. 1; 13 Eliz. c. 2; 23 Eliz. c. 1; 27 Eliz. c. 2; 1 Jac. I. c. 4; 3 Jac. I. c. 4, c. 5; 1 Wil. & Mary, c. 18; 1 Geo. I. st. 2, c. 13; 11 Geo. II. c. 17; 10 Geo. III. c. 6.]

I. General Observations.

IT is to be observed in general, that popish recusants are liable to all the forfeitures and disabilities and other inconveniences, to which other recusants are liable; and to many others, to which other recusants are not liable.

A recusant is any person who refuses to go to church and worship God after the manner of the Church of England; a popish recusant is a papist who so refuseth; and a popish recusant convict is a papist legally convicted thereof.

There were several statutes made against recusants in Queen Elizabeth's reign, and the former part of the reign of King James the First, the force of which, as to protestant dissenters, is taken away by the Act of Toleration; but no papist or popish recusant shall have any benefit by that act.

II. Toleration of Catholics.

By the 31 Geo. III. c. 32, s. 1, it shall be lawful for persons professing the Roman Catholic religion to appear in any of the courts at Westminster, or at the general quarter sessions for the county, city, or place where he shall reside, and there in open court, between the hours of nine in the morning and two in the afternoon, take, make, and subscribe the following declaration and oath; viz. :—

"I, A. B., do hereby declare, that I do profess the Roman Catholic religion." Declaration.

"I, A. B., do sincerely promise and swear that I will be faithful and bear true allegiance to his majesty King , and him will defend to the utmost of

31 Geo. 3, c. 32.

my power against all conspiracies and attempts whatever that shall be made against his person, crown, or dignity; and I will do my utmost endeavour to disclose and make known to his majesty, his heirs and successors, all treasons and traitorous conspiracies which may be formed against him or them: And I do faithfully promise to maintain, support, and defend to the utmost of my power the succession of the crown; which succession, by an act intitled 'An Act for the further Limitation of the Crown and better Security of the Rights and Liberties of the Subject,' is and stands limited to the Princess Sophia, Electress and Duchess Dowager of Hanover, and the heirs of her body, being protestants, hereby utterly renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the crown of these realms. And I do swear, that I do reject and detest, as an unchristian and impious position, that it is lawful to murder or destroy any person or persons whatsoever, for or under pretence of their being heretics or infidels; and also that unchristian and impious principle, that faith is not to be kept with heretics or infidels. And I do further declare that it is not an article of my faith, and that I do renounce, reject, and abjure the opinion, that princes excommunicated by the pope in council, or any authority of the see of Rome, or by any authority whatsoever, may be deposed or murdered by their subjects, or any person whatsoever. And I do promise that I will not hold, maintain, or abet any such opinion, or any other opinion contrary to what is expressed in this declaration. And I do declare that I do not believe that the Pope of Rome, or any other foreign prince, prelate, state, or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority, or pre-eminence, directly or indirectly, within this realm. And I do solemnly, in the presence of God, profess, testify, and declare, that I do make this declaration and every part thereof in the plain and ordinary sense of the words of this oath, without any evasion, equivocation, or mental reservation whatever; and without any dispensation already granted by the pope, or any authority of the see of Rome, or any person whatever; and without thinking that I am or can be acquitted before God or man, or absolved of this declaration, or any part thereof, although the pope or any other person or authority whatsoever shall dispense with or annul the same, or declare that it was null or void. So help me God."

Certificate thereof to be given.

Which said declaration and oath shall be subscribed by such person. And the proper officer shall make, subscribe, and deliver a certificate of such declaration and oath having been duly made and taken, if demanded, for which he shall have 2s.; which certificate shall be competent evidence, unless falsified.

Not required to resort to church.

Sect. 3. And no Roman Catholic, who shall have taken and subscribed the said oath, as aforesaid, shall be convicted upon any of the acts following: viz. 1 Eliz. c. 2; 23 Eliz. c. 1; 29 Eliz. c. 6; 35 Eliz. c. 2; 1 Jac. I. c. 4; 3 Jac. I. c. 4; 3 Jac. I. c. 5; and 7 Jac. I. c. 6; or any other statute or law of this realm, or in any ecclesiastical court, for not resorting to church, or having servants who shall not resort to church, or other place of common prayer.

Not prosecutable for being a papist.

Sect. 4. And whereas, by stats. 23 Eliz. c. 2, 27 Eliz. c. 2, 35 Eliz. c. 2, 1 Jac. I. c. 4, 3 Jac. I. c. 5, 3 Car. I. c. 2, and 25 Car. II. c. 2, papists are made subject to several punishments, penalties, and disabilities, it is enacted, that no person who shall take and subscribe the said oath in manner aforesaid shall be prosecuted or convicted for being a papist, or reputed papist; or for professing or being educated in the popish religion; or for hearing or saying mass; or for being a priest or deacon; or entering or belonging to any ecclesiastical order or community of the church of Rome; or for being present at, or performing or observing, any rite, ceremony, practice, or observance of the popish religion, or maintaining or assisting others therein.

Places of meeting to be certified to the sessions;

Sect. 5. Provided always, that no place of congregation or assembly for religious worship shall be allowed, until the place of such meeting shall be certified to the sessions of the county or place in which the same shall be held, and be there recorded; and the clerk of the peace shall give a certificate thereof, if demanded, for which he shall have 6d. And no minister or other person shall officiate in any such place of meeting until his name and description as a priest or minister shall have been recorded at the sessions; for which shall be paid 6d., and a certificate thereof shall be granted, if demanded, for which shall be paid 2s. And no priest or minister who shall officiate in any such meeting not so recorded, as aforesaid, shall be deemed to be within the benefit of this act, for any purpose whatsoever.

And the minister's name to be recorded there.

Places of assembly not to be locked.

Sect. 6. Provided that if any such place of assembly shall have the doors locked, barred, or bolted, during the time of meeting, all persons who shall

come to or be at such meeting shall receive no benefit from this act, notwithstanding his having taken such oath, as aforesaid, but shall be liable to the same pains and penalties as if this act had not been made.

53 Geo. 3, c. 128.

Sect. 10. And if any person shall wilfully and on purpose maliciously and contemptuously come into any congregation or assembly of religious worship permitted by this act, and disturb the same, or misuse any priest, minister, preacher, or teacher therein, he shall, on proof by two witnesses, before one justice, find two sureties of the peace to be bound by recognizance in 50*l.*, and in default thereof shall be committed to prison till the next sessions, and on conviction of such offence at the sessions, shall forfeit 20*l.* to the king.

Disturbing congregations, or missing priests.

Sect. 18, 19. No person shall be summoned to take the oath required by the 1 Wil. & Mary, sess. 1, c. 8, or the declaration required by the 25 Car. II. c. 2. Nor shall the 1 Wil. & Mary, sess. 1, c. 9, for removing papists from London and Westminster extend to Roman Catholics who shall have taken and subscribed the oath, &c., herein appointed.

Not required to take certain oaths.

Sect. 20. No peer who shall have taken and subscribed the said oath, &c., *Peers* in manner aforesaid, shall be liable to be prosecuted under 30 Car. II. st. 2, s. 5.

By the 53 Geo. III. c. 128, s. 1, all such of his majesty's popish or Roman Catholic subjects as hold, exercise, and enjoy any civil or military office or offices, or place or places of trust or profit, or other office or situation whatsoever, granted to them or any of them in Ireland, under the authority of the 33 Geo. III. of the Parliament of Ireland, and who shall have duly taken the oaths and declaration required by the said act, shall not, in respect of any such office, place, or situation, be liable, in England, Wales, Berwick-upon-Tweed, or in his majesty's navy, or in the Islands of Jersey or Guernsey, to any of the pains, &c. enacted by the 25 Car. II. c. 2, and shall also be wholly exempt from any pains, &c. whatsoever in the said several places last mentioned, for not making, taking, and subscribing the oaths of allegiance, supremacy, or abjuration, or not making, taking, and subscribing the declaration required to be taken to enable any person to hold and enjoy any office or place of trust or profit, or for not receiving the sacrament of the Lord's supper according to the rights and ceremonies of the church of England; any thing contained in any act of Parliament to the contrary notwithstanding.

53 Geo. 3, c. 128. Regulations as to the taking of commissions in the army.

Sect. 2. And if any of his said majesty's popish or Roman Catholic subjects, having duly taken the oaths and declaration required by this act, shall take or have taken in Ireland a commission in his majesty's army, and shall afterwards take a higher commission or higher commissions in Great Britain, within the intent and meaning of the said act; or if any person having enlisted as a private in any regiment in Ireland, or being a non-commissioned officer in such regiment, shall afterwards take or have taken a commission in the said or any other regiment in Great Britain, and shall have duly taken the oaths and declaration required by the said act, he shall not, in respect of such commission, be liable, in England, Wales, Berwick-upon-Tweed, or in his majesty's navy, or in the islands of Jersey or Guernsey, to any of the pains, &c. in said 25 Car. II. c. 2, and shall also be wholly freed, &c., as in s. 1.

By the 10 Geo. IV. c. 7, it is enacted, "That from and after the commencement of this act, all such parts of the said acts as require the said declarations, or either of them, to be made or subscribed by any of his majesty's subjects, as a qualification for sitting and voting in parliament, or for the exercise or enjoyment of any office, franchise, or civil right, be and the same are (save as hereinafter provided and excepted) hereby repealed."

10 Geo. 4, c. 7. Acts relating to declarations against transubstantiation repealed.

Sect. 2. "From and after the commencement of this act it shall be lawful for any person professing the Roman Catholic religion, being a peer, or who shall after the commencement of this act be returned as a member of the House of Commons, to sit and vote in either house of Parliament respectively, being in all other respects duly qualified to sit and vote therein, upon taking and subscribing the following oath, instead of the oaths of allegiance, supremacy, and abjuration:

Roman Catholics may sit and vote in Parliament, on taking the following oath.

"*I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to his Majesty King George the Fourth, and will defend him to the utmost*

10 Geo. 4, c. 7.

of my power against all conspiracies and attempts whatever, which shall be made against his person, crown, or dignity; and I will do my utmost endeavour to disclose and make known to his majesty, his heirs and successors, all treasons and traitorous conspiracies which may be formed against him or them: and I do faithfully promise to maintain, support, and defend, to the utmost of my power, the succession of the crown, which succession, by an act, intituled, 'An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject,' is and stands limited to the Princess Sophia, Electress of Hanover, and the heirs of her body, being protestants; hereby utterly renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the crown of this realm: and I do further declare, that it is not an article of my faith, and that I do renounce, reject, and abjure the opinion, that princes excommunicated or deprived by the pope, or any other authority of the see of Rome, may be deposed or murdered by their subjects, or by any person whatsoever: and I do declare, that I do not believe that the Pope of Rome, or any other foreign prince, prelate, person, state, or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority, or pre-eminence, directly or indirectly, within this realm. I do swear, that I will defend to the utmost of my power the settlement of property within this realm, as established by the laws: and I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present church establishment, as settled by law within this realm: and I do solemnly swear that I never will exercise any privilege to which I am or may become entitled, to disturb or weaken the protestant religion or protestant government in the United Kingdom: and I do solemnly, in the presence of God, profess, testify, and declare, that I do make this declaration, and every part thereof, in the plain and ordinary sense of the words of this oath, without any evasion, equivocation, or mental reservation whatsoever. So help me God.'

The name of the sovereign for the time being to be used in the oath,

Sec. 3. "Wherever, in the oath hereby appointed and set forth, the name of his present majesty is expressed or referred to, the name of the sovereign of this kingdom for the time being, by virtue of the act for the further limitation of the crown and better securing the rights and liberties of the subject, shall be substituted from time to time, with proper words of reference thereto."

No Roman Catholic capable of sitting or voting until he has taken the oath.

Sec. 4. "No peer professing the Roman Catholic religion, and no person professing the Roman Catholic religion, who shall be returned a member of the House of Commons after the commencement of this act, shall be capable of sitting or voting in either house of Parliament respectively, unless he shall first take and subscribe the oath hereinbefore appointed and set forth, before the same persons, at the same times and places, and in the same manner as the oaths and the declaration now required by law are respectively directed to be taken, made, and subscribed; and that any such person professing the Roman Catholic religion, who shall sit or vote in either house of Parliament, without having first taken and subscribed, in the manner aforesaid, the oath in this act appointed and set forth, shall be subject to the same penalties, forfeitures, and disabilities, and the offence of so sitting or voting shall be followed and attended by and with the same consequences, as are by law enacted and provided in the case of persons sitting or voting in either House of Parliament respectively, without the taking, making, and subscribing the oaths and the declaration now required by law."

Roman Catholics may vote at elections, and be elected, upon taking the oath.

Sec. 5. "It shall be lawful for persons professing the Roman Catholic religion to vote at elections of members to serve in Parliament for England and for Ireland, and also to vote at the elections of representative peers of Scotland and of Ireland, and to be elected such representative peers, being in all other respects duly qualified, upon taking and subscribing the oath hereinbefore appointed and set forth, instead of the oaths of allegiance, supremacy, and abjuration, and instead of the declaration now by law required, and instead also of such other oath or oaths as are now by law required to be taken by any of his majesty's subjects professing the Roman Catholic religion, and upon taking also such other oath or oaths as may now be lawfully tendered to any persons offering to vote at such elections."

Oath shall be administered in the same manner as former oaths.

Sec. 6. "The oath hereinbefore appointed and set forth shall be administered to his majesty's subjects professing the Roman Catholic religion, for the purpose of enabling them to vote in any of the cases aforesaid, in the same manner, at the same time, and by the same officers or other persons as the

oaths for which it is hereby substituted are or may be now by law administered; and that in all cases in which a certificate of the taking, making, or subscribing of any of the oaths or of the declaration now required by law is directed to be given, a like certificate of the taking or subscribing of the oath hereby appointed and set forth shall be given by the same officer or other person, and in the same manner as the certificate now required by law is directed to be given, and shall be of the like force and effect."

Sect. 7. "In all cases where the persons now authorized by law to administer the oaths of allegiance, supremacy, and abjuration to persons voting at elections, are themselves required to take an oath previous to their administering such oaths, they shall, in addition to the oath now by them taken, take an oath for the duly administering the oath hereby appointed and set forth, and for the duly granting certificates of the same."

Sect. 8. "Whereas in an act of the Parliament of Scotland made in the eighth and ninth session of the first Parliament of King William the Third, intituled 'An Act for the preventing the Growth of Popery,' a certain declaration or formula is therein contained, which it is expedient should no longer be required to be taken and subscribed:" it is enacted, "That such parts of any acts as authorize the said declaration or formula to be tendered, or require the same to be taken, sworn, and subscribed, shall be and the same are hereby repealed, except as to such offices, places, and rights as are hereinafter excepted; and that from and after the commencement of this act it shall be lawful for persons professing the Roman Catholic religion to elect and be elected members to serve in Parliament for Scotland, and to be enrolled as freeholders in any shire or stewartry of Scotland, and to be chosen commissioners or delegates for choosing burgesses to serve in Parliament for any districts or burghs in Scotland, being in all other respects duly qualified, such persons always taking and subscribing the oath hereinbefore appointed and set forth, instead of the oaths of allegiance and abjuration as now required by law, at such time as the said last-mentioned oaths, or either of them, are now required by law to be taken."

Sect. 9. "No person in holy orders in the Church of Rome shall be capable of being elected to serve in Parliament as a member of the House of Commons; and if any such person shall be elected to serve in Parliament as aforesaid, such election shall be void; and if any person, being elected to serve in Parliament as a member of the House of Commons, shall, after his election, take or receive holy orders in the Church of Rome, the seat of such person shall immediately become void; and if any such person shall, in any of the cases aforesaid, presume to sit or vote as a member of the House of Commons, he shall be subject to the same penalties, forfeitures, and disabilities as are enacted by an act passed in the forty-first year of the reign of King George the Third, intituled, 'An Act to remove Doubts respecting the Eligibility of Persons in Holy Orders to sit in the House of Commons;' and proof of the celebration of any religious service by such person, according to the rites of the Church of Rome, shall be deemed and taken to be *prima facie* evidence of the fact of such person being in holy orders, within the intent and meaning of this act."

Sect. 10. "It shall be lawful for any of his majesty's subjects professing the Roman Catholic religion to hold, exercise, and enjoy all civil and military offices and places of trust or profit under his majesty, his heirs or successors, and to exercise any other franchise or civil right, except as hereinafter excepted, upon taking and subscribing, at the times and in the manner herein-after mentioned, the oath hereinbefore appointed and set forth, instead of the oaths of allegiance, supremacy, and abjuration, and instead of such other oath or oaths as are or may be now by law required to be taken for the purpose aforesaid by any of his majesty's subjects professing the Roman Catholic religion."

Sect. 11. "Provided that nothing herein contained shall be construed to exempt any person professing the Roman Catholic religion from the necessity of taking any oath or oaths, or making any declaration, not hereinbefore men-

10 Geo. 4, c. 7.

Persons administering oaths at elections to take an oath duly to administer.

So much of any acts as require the formula contained in 8 & 9 Wil. 3, c. 3, (S.) to be tendered or taken, repealed.

Roman Catholics may elect and be elected members for Scotland.

No Roman Catholic priest to sit in the House of Commons.

Roman Catholics may hold civil and military offices under his majesty, with certain exceptions.

Not to exempt Roman Catholics from taking any other oaths required.

10 Geo. 4, c. 7.

tioned, which are or may be by law required to be taken or subscribed by any person on his admission into any such office or place of trust or profit as aforesaid."

Offices withheld from Roman Catholics.

Sect. 12. "Provided that nothing herein contained shall extend or be construed to extend to enable any person or persons professing the Roman Catholic religion to hold or exercise the office of guardians and justices of the United Kingdom, or of regent of the United Kingdom, under whatever name, style, or title such office may be constituted; nor to enable any person, otherwise than as he is now by law enabled, to hold or enjoy the office of lord high chancellor, lord keeper or lord commissioner of the great seal of Great Britain or Ireland; or the office of lord lieutenant, or lord deputy, or other chief governor or governors of Ireland; or his majesty's high commissioner to the general assembly of the Church of Scotland."

Nothing herein to repeal 7 Geo. 4, c. 72.

Sect. 13. "Provided that nothing herein contained shall be construed to affect or alter any of the provisions of an act passed in the seventh year of his present majesty's reign, intituled 'An Act to consolidate and amend the Laws which regulate the Levy and Application of Church Rates and Parish Cesses, and the Election of Churchwardens, and the Maintenance of Parish Clerks, in Ireland.'"

Roman Catholics may be members of lay corporations.

Sect. 14. "It shall be lawful for any of his majesty's subjects professing the Roman Catholic religion to be a member of any lay body corporate, and to hold any civil office or place of trust or profit therein, and to do any corporate act, or vote in any corporate election or other proceeding, upon taking and subscribing the oath hereby appointed and set forth, instead of the oaths of allegiance, supremacy, and abjuration; and upon taking also such other oath or oaths as may now by law be required to be taken by any persons becoming members of such lay body corporate, or being admitted to hold any office or place of trust or profit within the same."

Such members of corporations not to vote in ecclesiastical appointments.

Sect. 15. "Provided that nothing herein contained shall extend to authorize or empower any of his majesty's subjects professing the Roman Catholic religion, and being a member of any lay body corporate, to give any vote at, or in any manner to join in the election, presentation, or appointment of any person to any ecclesiastical benefice whatsoever, or any office or place belonging to or connected with the United Church of England and Ireland, or the Church of Scotland, being in the gift, patronage, or disposal of such lay corporate body."

Not to extend to offices, &c. in the established church, ecclesiastical courts, universities, colleges, or schools;

Sect. 16. "Provided that nothing in this act contained shall be construed to enable any persons, otherwise than as they are now by law enabled, to hold, enjoy, or exercise any office, place, or dignity of, in, or belonging to the United Church of England and Ireland, or the Church of Scotland, or any place or office whatever of, in, or belonging to any of the ecclesiastical courts of judicature of England and Ireland respectively, or any court of appeal from or review of the sentences of such courts, or of, in, or belonging to the Commissary Court of Edinburgh, or of, in, or belonging to any cathedral or collegiate or ecclesiastical establishment or foundation; or any office or place whatever of, in, or belonging to any of the universities of this realm; or any office or place whatever, and by whatever name the same may be called, of, in, or belonging to any of the colleges or halls of the said universities, or the colleges of Eton, Westminster, or Winchester, or any college or school within this realm; or to repeal, abrogate, or in any manner to interfere with any local statute, ordinance, or rule, which is or shall be established by competent authority within any university, college, hall, or school, by which Roman Catholics shall be prevented from being admitted thereto, or from residing or taking degrees therein: provided also, that nothing herein contained shall extend or be construed to extend to enable any person, otherwise than as he is now by law enabled, to exercise any right of presentation to any ecclesiastical benefice whatsoever; or to repeal, vary, or alter in any manner the laws now in force in respect to the right of presentation to any ecclesiastical benefice."

nor to presentations to benefices.

Proviso for presentations to benefices connected with offices.

Sect. 17. "Provided, that where any right of presentation to any ecclesiastical benefice shall belong to any office in the gift or appointment of his

majesty, his heirs or successors, and such office shall be held by a person professing the Roman Catholic religion, the right of presentation shall devolve upon and be exercised by the Archbishop of Canterbury for the time being."

Sect. 18. "It shall not be lawful for any person professing the Roman Catholic religion, directly or indirectly, to advise his majesty, his heirs or successors, or any person or persons holding or exercising the office of guardians of the United Kingdom, or of regent of the United Kingdom, under whatever name, style, or title such office may be constituted, or the lord lieutenant, or lord deputy, or other chief governor or governors of Ireland, touching or concerning the appointment to or disposal of any office or preferment in the United Church of England and Ireland, or in the Church of Scotland; and if any such person shall offend in the premises, he shall, being thereof convicted by due course of law, be deemed guilty of a high misdemeanor, and disabled for ever from holding any office, civil or military, under the crown."

Sect. 19. "Every person professing the Roman Catholic religion, who shall, after the commencement of this act, be placed, elected, or chosen in or to the office of mayor, provost, alderman, recorder, bailiff, town-clerk, magistrate, councillor, or common councilman, or in or to any office of magistracy, or place of trust or employment relating to the government of any city, corporation, borough, burgh, or district, within the United Kingdom of Great Britain and Ireland, shall, within one calendar month next before or upon his admission into any of the same respectively, take and subscribe the oath herein-before appointed and set forth, in the presence of such person or persons respectively as by the charters or usages of the said respective cities, corporations, burghs, boroughs, or districts, ought to administer the oath for due execution of the said offices or places respectively; and, in default of such, in the presence of two justices of the peace, councillors, or magistrates, of the said cities, corporations, burghs, boroughs, or districts, if such there be; or, otherwise, in the presence of two justices of the peace of the respective counties, ridings, divisions, or franchises, wherein the said cities, corporations, burghs, boroughs, or districts are; which said oath shall either be entered in a book, roll, or other record, to be kept for that purpose, or shall be filed amongst the records of the city, corporation, burgh, borough, or district."

Sect. 20. "Every person professing the Roman Catholic religion, who shall, after the commencement of this act, be appointed to any office or place of trust or profit under his majesty, his heirs or successors, shall within three calendar months next before such appointment, or, otherwise, shall, before he presumes to exercise or enjoy, or in any manner to act in, such office or place, take and subscribe the oath herein-before appointed and set forth, either in his majesty's high Court of Chancery, or in any of his majesty's Courts of King's Bench, Common Pleas, or Exchequer, at Westminster or Dublin; or before any judge of assize, or in any court of general or quarter sessions of the peace in Great Britain or Ireland, for the county or place where the person so taking and subscribing the oath shall reside; or in any of his majesty's courts of session, judiciary, exchequer, or jury court, or in any sheriff or steward court, or in any burgh court, or before the magistrates and councillors of any royal burgh in Scotland, between the hours of nine in the morning and four in the afternoon; and the proper officer of the court in which such oath shall be so taken and subscribed shall cause the same to be preserved amongst the records of the court; and such officer shall make, sign, and deliver a certificate of such oath having been duly taken and subscribed, as often as the same shall be demanded of him, upon payment of two shillings and sixpence for the same; and such certificate shall be sufficient evidence of the person therein named having duly taken and subscribed such oath."

Sect. 21. "If any person professing the Roman Catholic religion shall enter upon the exercise or enjoyment of any office, or place of trust or profit, under his majesty, or of any other office or franchise, not having in the manner and at the times aforesaid taken and subscribed the oath herein-before appointed and set forth, then, and in every such case, such person shall forfeit to his majesty the sum of 200*l.*; and the appointment of such person to the office, place, or franchise so by him held shall become altogether void, and the office, place, or

10 Geo. 4, c. 7.

No Roman Catholic to advise the crown in the appointment to offices in the established church.

Time and manner of taking oaths for corporate offices.

Time and manner of taking oaths for other offices.

Penalty on acting in offices without taking the oath.

10 Geo. 4, c. 7.

Oaths by military and naval officers.

No other oaths necessary to be taken by Roman Catholics.

Titles to sees, &c., not to be assumed by Roman Catholics.

Judicial or other officers not to attend with insignia of office at any place of worship, other than established church.

Penalty on Roman Catholic ecclesiastics officiating, except in their usual places of worship.

Not to repeal the 5 Geo. 4, c. 25.

For the suppression of Jesuits,

franchise shall be deemed and taken to be vacant, to all intents and purposes whatsoever."

SECT. 22. "Provided that, for and notwithstanding anything in this act contained, the oath herein-before appointed and set forth shall be taken by the officers in his majesty's land and sea service, professing the Roman Catholic religion, at the same times and in the same manner as the oaths and declarations now required by law are directed to be taken, and not otherwise."

SECT. 23. "From and after the passing of this act, no oath or oaths shall be tendered to or required to be taken by his majesty's subjects professing the Roman Catholic religion, for enabling them to hold or enjoy any real or personal property, other than such as may by law be tendered to and required to be taken by his majesty's other subjects; and that the oath herein appointed and set forth, being taken and subscribed in any of the courts, or before any of the persons above-mentioned, shall be of the same force and effect, to all intents and purposes, as, and shall stand in the place of, all oaths and declarations required or prescribed by any law now in force for the relief of his majesty's Roman Catholic subjects from any disabilities, incapacities, or penalties; and the proper officer of any of the courts above-mentioned, in which any person professing the Roman Catholic religion shall demand to take and subscribe the oath herein appointed and set forth, is hereby authorized and required to administer the said oath to such person; and such officer shall make, sign, and deliver a certificate of such oath having been duly taken and subscribed, as often as the same shall be demanded of him, upon payment of 1s.; and such certificate shall be sufficient evidence of the person therein named having duly taken and subscribed such oath."

SECT. 24. "And whereas the Protestant Episcopal Church of England and Ireland, and the doctrine, discipline, and government thereof, and likewise the Protestant Presbyterian Church of Scotland, and the doctrine, discipline, and government thereof, are, by the respective acts of union of England and Scotland, and of Great Britain and Ireland, established permanently and inviolably; and whereas the right and title of archbishops to their respective provinces, of bishops to their sees, and of deans to their deaneries, as well in England as in Ireland, have been settled and established by law; be it therefore enacted, if any person, after the commencement of this act, other than the person thereunto authorized by law, shall assume or use the name, style, or title of archbishop of any province, bishop of any bishopric, or dean of any deanery, in England or Ireland, he shall for every such offence forfeit and pay the sum of 100*l*."

SECT. 25. "If any person holding any judicial or civil office, or any mayor, provost, jurat, bailiff, or other corporate officer, shall, after the commencement of this act, resort to or be present at any place or public meeting for religious worship in England or in Ireland, other than that of the United Church of England and Ireland, or in Scotland, other than that of the Church of Scotland, as by law established, in the robe, gown, or other peculiar habit of his office, or attend with the ensign or insignia, or any part thereof, of or belonging to such his office, such person shall, being thereof convicted by due course of law, forfeit such office, and pay for every such offence the sum of 100*l*."

SECT. 26. "If any Roman Catholic ecclesiastic, or any member of any of the orders, communities, or societies hereinafter mentioned, shall, after the commencement of this act, exercise any of the rites or ceremonies of the Roman Catholic religion, or wear the habits of his order, save within the usual places of worship of the Roman Catholic religion, or in private houses, such ecclesiastic or other person shall, being thereof convicted by due course of law, forfeit for every such offence the sum of 50*l*."

SECT. 27. "Provided that nothing in this act contained shall in any manner repeal, alter, or affect any provision of an act made in the fifth year of his present majesty's reign, intituled, 'An Act to repeal so much of an Act passed in the Ninth Year of the Reign of King William the Third, as relates to Burials in suppressed Monasteries, Abbeyes, or Convents in Ireland, and to make further Provision with respect to the Burial in Ireland of Persons dissenting from the Established Church.'"

SECT. 28. "And whereas jesuits, and members of other religious orders,

communities, or societies of the Church of Rome, bound by monastic or religious vows, are resident within the United Kingdom, and it is expedient to make provision for the gradual suppression and final prohibition of the same therein; it is enacted, that every jesuit, and every member of any other religious order, community, or society, of the Church of Rome, bound by monastic or religious vows, who, at the time of the commencement of this act, shall be within the United Kingdom, shall, within six calendar months after the commencement of this act, deliver to the clerk of the peace of the county or place where such person shall reside, or to his deputy, a notice or statement, in the form and containing the particulars required to be set forth in the schedule to this act annexed; which notice or statement such clerk of the peace, or his deputy, shall preserve and register amongst the records of such county or place, without any fee, and shall forthwith transmit a copy of such notice or statement to the chief secretary of the lord lieutenant, or other chief governor or governors of Ireland, if such person shall reside in Ireland, or, if in Great Britain, to one of his majesty's principal secretaries of state; and, in case any person shall offend in the premises, he shall forfeit and pay to his majesty, for every calendar month during which he shall remain in the United Kingdom, without having delivered such notice or statement as is hereinbefore required, the sum of 50*l*."

10 Geo. 4, c. 7.

and other religious orders of the church of Rome.

Sect. 29. "If any jesuit, or member of any such religious order, community, or society, as aforesaid, shall, after the commencement of this act, come into this realm, he shall be deemed and taken to be guilty of a misdemeanor; and, being thereof lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life."

Jesuits, &c., coming into the realm, to be banished.

Sect. 30. "Provided that, in case any natural-born subject of this realm, being at the time of the commencement of this act a jesuit, or other member of any such religious order, community, or society, as aforesaid, shall, at the time of the commencement of this act, be out of the realm, it shall be lawful for such person to return or to come into this realm; and, upon such his return or coming into the realm, he is hereby required, within the space of six calendar months after his first returning or coming into the United Kingdom, to deliver such notice or statement to the clerk of the peace of the county or place where he shall reside, or his deputy, for the purpose of being so registered and transmitted, as herein-before directed; and, in case any such person shall neglect or refuse so to do, he shall for such offence forfeit and pay to his majesty, for every calendar month during which he shall remain in the United Kingdom without having delivered such notice or statement, the sum of 50*l*."

Natural-born subjects, being jesuits, may return into the kingdom, and be registered.

Sect. 31. "Provided also, that, notwithstanding anything herein-before contained, it shall be lawful for any one of his majesty's principal secretaries of state, being a protestant, by a license in writing, signed by him, to grant permission to any jesuit, or member of any such religious order, community, or society, as aforesaid, to come into the United Kingdom, and to remain therein for such period as the said secretary of state shall think proper, not exceeding in any case the space of six calendar months; and it shall also be lawful for any of his majesty's principal secretaries of state to revoke any license so granted before the expiration of the time mentioned therein, if he shall so think fit; and if any such person to whom such license shall have been granted shall not depart from the United Kingdom within twenty days after the expiration of the time mentioned in such license, or if such license shall have been revoked, then within twenty days after notice of such revocation shall have been given to him, every person so offending shall be deemed guilty of a misdemeanor, and, being thereof lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life."

The principal secretaries of state may grant licenses to jesuits, &c., to come into the kingdom, and may revoke the same.

Sect. 32. "There shall annually be laid before both houses of Parliament an account of all such licenses as shall have been granted for the purpose hereinbefore mentioned, within the twelve months then next preceding."

Accounts of licenses to be laid before Parliament.

Sect. 33. "In case any jesuit, or member of any such religious order, community, or society, as aforesaid, shall, after the commencement of this act, within any part of the United Kingdom, admit any person to become a regular ecclesiastic, or brother or member of any such religious order, community, or society,

Admitting persons as members of such religious orders deemed a misdemeanor.

10 Geo. 4, c. 7.

or be aiding or consenting thereto, or shall administer or cause to be administered, or be aiding or assisting in the administering or taking, any oath, vow, or engagement, purporting or intended to bind the person taking the same to the rules, ordinances, or ceremonies of such religious order, community, or society, every person offending in the premises in England or Ireland shall be deemed guilty of a misdemeanor, and in Scotland shall be punished by fine and imprisonment."

Any person so admitted a member of a religious order to be banished.

Sect. 34. "In case any person shall, after the commencement of this act, within any part of this United Kingdom, be admitted or become a jesuit, or brother or member of any other such religious order, community, or society, as aforesaid, such person shall be deemed and taken to be guilty of a misdemeanor, and, being thereof lawfully convicted, shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life."

The party offending may be banished by his majesty;

Sect. 35. "In case any person sentenced and ordered to be banished under the provisions of this act shall not depart from the United Kingdom within thirty days after the pronouncing of such sentence and order, it shall be lawful for his majesty to cause such person to be conveyed to such place out of the United Kingdom as his majesty, by the advice of his privy council, shall direct."

and, if at large after three months, may be transported for life.

Sect. 36. "If any offender, who shall be so sentenced and ordered to be banished in manner aforesaid, shall, after the end of three calendar months from the time such sentence and order hath been pronounced, be at large within any part of the United Kingdom, without some lawful cause, every such offender being so at large, as aforesaid, on being thereof lawfully convicted, shall be transported to such place as shall be appointed by his majesty, for the term of his natural life."

Not to extend to female societies.

Sect. 37. "Provided that nothing herein contained shall extend, or be construed to extend, in any manner to affect any religious order, community, or establishment, consisting of females bound by religious or monastic vows."

Penalties, how to be recovered.

Sect. 38. "All penalties imposed by this act shall and may be recovered as a debt due to his majesty, by information to be filed in the name of his majesty's attorney-general for England or for Ireland, as the case may be, in the Courts of Exchequer in England or Ireland respectively, or in the name of his majesty's advocate-general in the Court of Exchequer in Scotland."

Act may be altered this session.

Sect. 39. "This act, or any part thereof, may be repealed, altered, or varied at any time within this present session of Parliament."

Commencement of act.

Sect. 40. "This act shall commence and take effect at the expiration of ten days from and after the passing thereof."

Schedule to which this act refers.

Date of the Registry.	Name of the Party.	Age.	Place of Birth.	Name of the Order, Community, or Society, whereof he is a Member.	Name and usual Residence of the next immediate Superior of the Order, Community, or Society.	Usual Place of Residence of the Party.

III. Miscellaneous Enactments as to Papists and Papery. (a)

By the 5 Eliz. c. 1, if any person shall maintain the authority of the see of Rome in this realm, he shall incur a *premunire* (b) for the first offence, and for the second shall be guilty of high treason. Prosecution to be within a year. And the justices in sessions may inquire thereof, and shall certify the same into the King's Bench. Sects. 2, 3, 4, 10, 11.

Maintaining authority of see of Rome.

And by the 3 Jac. I. c. 4, s. 22, 23, 25, if any person shall put in practice to absolve or withdraw any subjects from their allegiance, or if any person shall be willingly so absolved or withdrawn, he, his aiders and maintainers, shall be guilty of high treason. The trial to be at the assizes, or in the K. B.

Absolving or withdrawing subjects.

None shall take any benefice of an alien, or convey money to him for the farm thereof; on pain of incurring a *premunire*. 13 Rich. II. c. 3.

Taking a benefice from an alien.

No alien shall purchase or occupy a benefice in England; on pain of a *premunire*. 7 Rich. II. c. 12.

He that shall go out of the realm, to procure a benefice, shall be out of the king's protection; and the same shall be void. 12 Rich. II. c. 15.

Going out of realm to procure a benefice.

If any person shall accept a benefice from the Pope, he shall be banished for ever, and his lands and goods forfeited. 13 Rich. II. st. 2, c. 2.

Accepting benefice from pope.

By the 7 Hen. IV. c. 8, 3 Hen. V. st. 2, c. 4, no provision of a benefice not vacant, made by the Pope, and licensed by the king, shall be available: but persons endeavouring to exclude the incumbent thereby shall incur a *premunire*.

If any person shall get or publish any bull or instrument from Rome, he shall be guilty of high treason. And his aiders and comforters shall incur a *premunire*. And concealing the same shall be misprision of high treason. 13 Eliz. c. 2. And the justices of the peace may inquire thereof, within a year and a day. 23 Eliz. c. 1, s. 8.

Bringing bulls or other instruments from Rome.

By the Toleration Act (1 Wil. & Mary, c. 18, s. 12), if any person, being required by a justice of the peace, shall refuse to take the oaths of allegiance and supremacy, and to make and subscribe the declaration against popery of the 30 Car. II., he shall be committed by the said justice to prison; and at the next sessions, if he shall again refuse to make and subscribe the said declaration, he shall be deemed and suffer as a popish recusant convict.

Refusing to take the oaths.

And by the 1 Geo. I. st. 2, c. 13, s. 10, 11, two justices may summon any person whom they shall suspect to be disaffected, by writing under their hands and seals, to appear before them at a time prefixed, to take the oaths of allegiance, supremacy, and abjuration, which summons shall be served on such person, or left at his dwelling-house, or usual place of abode, with one of the family there; and if such person shall neglect or refuse to appear, then, on due proof made upon oath of serving the said summons, they shall certify the same to the next sessions, to be there recorded: and if such person shall neglect or refuse to appear and take the oaths at the said sessions (his name being publicly read at the first meeting of the said sessions), he shall be taken and adjudged a popish recusant convict. And the same shall be from thence certified by the clerk of the peace into the Chancery or K. B., to be there recorded.

Two justices may summon suspected persons.

By the 3 Jac. I. c. 4, s. 22, 23, 25, if any person shall put in practice to reconcile any subjects to popery, or if any person shall be willingly so reconciled, he, his aiders and maintainers, shall be guilty of high treason. The trial to be at the assizes, or in the K. B. And see the 27 Eliz. c. 2, s. 6.

Converting persons to popery.

No jesuit or popish priest shall come into or be in the realm, on pain of high treason: unless he conform. 27 Eliz. c. 2, s. 2, 3, 10.

Being in the realm.

And if any person shall knowingly receive or relieve any such, he shall be guilty of felony without benefit of clergy. (c) Sect. 4.

Receiving or relieving them.

(a) See the various obsolete and repealed provisions in the 22d and prior editions of this work.

(b) As to *premunire*, see *post*, *Præmunire*.

(c) As to benefit of clergy, see *Clergy, Benefit of*, Vol. I.

Discovering
them.

The person who shall first discover to any justice of the peace any person who shall entertain or relieve any jesuits, seminary or popish priest, within three days after the offence, so that by reason of such discovery any offender shall be taken and convicted; such person shall not only be freed from any penalty for such offence, if himself be an offender therein, but shall also have the third part of the forfeitures if they do not exceed 150*l.*, and if they do exceed 150*l.*, then he shall have 50*l.* 3 Jac. I. c. 5, s. 1.

Double land-tax.

By the yearly land-tax acts papists and reputed papists, being of 18 years of age, who shall not have taken the oaths of allegiance and supremacy, shall pay double land-tax, subject to redemption. See *Co. Lit.* 391, a. note 346 by *Butler*.

By the 10 Geo. III. c. 6, s. 113, estates doubly taxed, coming to Protestants, are to be discharged.

Recusant con-
forming, dis-
charged from
penalties, &c.

A recusant conforming shall be discharged of the penalties which he might otherwise sustain in respect of his recusancy. 1 Jac. I. c. 4, s. 2.

~~Posse Comitatus.~~ See ~~Warrant~~, *post*, 993.; ~~Riot~~, *post*, 284.;
~~Que and Cry~~, Vol. III. p. 280.

~~Postea~~, Proof by, see ~~Evidence~~, Vol. II., p. 44; *ante*, 64.
Variance in Statement of, *ante*, 60.

~~Post-Horses.~~

(4 Geo. IV. c. 62.)

- I. *Repeal of Statutes*, p. 158.
- II. *Duties—Exemptions—Licenses—Postmasters' Accounts, &c.*
p. 159 to 170.
- III. *Toll-Gate Keepers*, p. 170.
- IV. *Forging Tickets, Penalty for*, p. 172.
- V. *Duties and Penalties, how to be recovered and applied*, p. 172.
- VI. *Power of Justices—Conviction, &c.* p. 173.
- VII. *Letting the Duties to Farm*, p. 174.

I. *Repeal of Statutes by Stat. 4 Geo. IV. c. 62, s. 1.*

By 4 Geo. 4, c. 62, **BY** the 4 Geo. IV. c. 62, intituled 'An Act to repeal the Duties upon Horses let to hire for the purpose of Travelling in Great Britain, and to grant other Duties in lieu thereof, and to provide for Letting the same to Farm,' sect. 1, it is enacted, that from and after the 31st day of January, 1824, so much of the 25 Geo. III. c. 51, as relates to the duties on horses hired to be used in travelling post and by time: and also the 27 Geo. III. c. 26: and also so much of the 44 Geo. III. c. 98, as relates to the duties on horses hired to be used in travelling in Great Britain: and also the 57 Geo. III. c. 59: and also the 1 Geo. IV. c. 88: "and all the rates and duties, clauses, provisions, and regulations contained in any other acts, as far as the same relate to the said rates and duties, shall cease, save and except as far as the said acts or any of them, or any enactments, may have repealed any former acts or enactments therein contained, relating to the payment or collection of the said rates and duties or any part thereof, which may be now payable, or which may become payable, or to any penalty or penalties which hath or have been

25 Geo. 3, c. 51,

27 Geo. 3, c. 26,

44 Geo. 3, c. 98,

57 Geo. 3, c. 59,

1 Geo. 4, c. 88,

repealed.

Exception.

or may be incurred under any of the said acts; which said rates, duties, and penalties shall be recoverable, and proceedings or suits thereon shall be instituted and carried on, in such and the same manner as if this act had not been made: provided always, that the several bonds given or which may hereafter be given, in pursuance of the said acts or any of them, shall continue and be in full force and effect, with respect to all duties due and owing, or which may become due and owing by virtue of any of the said acts; and that the several licenses granted, or which may hereafter be granted, in pursuance of any of the said acts, shall continue and be in full force and effect, for and during the periods for which the same have been or may be respectively granted; and that the several deputations and appointments which have been or may be made under the provisions of any of the said acts, shall remain and continue in full force and effect until duly revoked or determined."

4 Geo. 4, c. 62.

Bonds and licenses to continue in force.

II. Duties, Exemptions, Licenses, Postmasters' Accounts, &c.

By the 4 Geo. IV. c. 62, s. 2, "it is enacted, that from and after the said 31st day of January, 1824, there shall be collected and paid throughout the kingdom of Great Britain, unto and for the use of his majesty, the several duties following; that is to say:—

Duties.

Every postmaster or other person in Great Britain, who shall let horses, mares, or geldings, for hire (except as hereinafter mentioned), shall pay annually the sum of 5s. for a license, authorizing him, her, or them, so to do.

Licenses.

And for and in respect of every horse, mare, or gelding, let for hire by the mile (at the usual rate charged for horses travelling post (a) at the place at which such horse, mare, or gelding, shall be let for hire), the sum of 1½d. for every mile such horse, mare, or gelding shall be hired or used to travel or go.

And for every horse, mare, or gelding let for hire, to go no greater distance than eight miles from the place of letting for hire, every such horse, mare, or gelding, one-fifth part of the sum charged for such letting for hire, or the sum of 1s. 9d. for every horse, mare, or gelding so let for hire.

And for every horse, mare, or gelding let for hire, to go no greater distance than eight miles from the place of letting for hire, every such horse, mare, or gelding, where such horse, mare, or gelding shall not bring back any person or persons, and shall not deviate from the usual line of road between the place of letting and the place or distance to which every such horse, mare, or gelding shall be hired to travel or go, the sum of 1s. for every such horse, mare, or gelding so let for hire as last aforesaid.

And for every horse, mare, or gelding let for hire or used for any period of time less than twenty-eight successive days, or in any other manner than by the mile, or to go no greater distance than eight miles, in either of the cases aforesaid, one-fifth part of the sum charged on every such letting for hire or using, or the sum of 2s. 6d. for each day not exceeding three days, and the sum of 1s. 9d. for each day exceeding three days and not exceeding thirteen days, and the sum of 1s. 3d. for each day exceeding thirteen days and less than twenty-eight days, during the time for which every such horse, mare, or gelding shall be so let for hire or used.

And for every horse, mare, or gelding let for hire or used for twenty-eight successive days, or for any longer period of time, where any such horse, mare, or gelding shall be returned in a less period of time than twenty-eight successive days, and not to be exchanged for another horse, mare, or gelding in continuation of the same hiring, one-fifth part of the sum received, or agreed to be received for such letting for hire or using, for and in respect of every such

(a) The words *travelling post* should be construed according to the popular acceptance of the term. *R. v. Tooley*, 3 T. R. 69; see, also, *R. v. Webber*, 3 T. R. 72; *R. v. Cook*, 3 T. R. 519; *Hanley v. Cubberley*, 15 East, 257; *Ramsden v. Gibbs*, 1 B. & Cres. 319; ante, Vol. III., p. 185, as to the construction of these words.

4 Geo. 4, c. 62.

horse, mare, or gelding, or the sum of 2s. 6d. for each day not exceeding three days, and the sum of 1s. 9d. for each day exceeding three days and not exceeding thirteen days, and the sum of 1s. 3d. for each day exceeding thirteen days and less than twenty-one days, during the time every such horse, mare, or gelding shall have been under the direction of the person hiring the same, by virtue of such letting for hire.

On what horses,
&c. duties are to
be charged.

Sect. 3. "The duties granted by this act shall be deemed to attach and be payable upon or in respect of every horse, mare, or gelding let for hire or used as aforesaid, either as a saddle-horse, or for drawing any carriage or vehicle conveying any person or persons, and upon or in respect of every horse, mare, or gelding used for drawing any mourning coach or hearse; but the said duties shall not be deemed to attach upon or be payable in respect of any horse, mare, or gelding used for the purpose of drawing any carriage or vehicle conveying passengers for hire at separate fares, as a public stage-coach or carriage, and duly licensed by the commissioners of stamps in Great Britain, (b) nor shall the said duties attach upon or be payable in respect of any horse, mare, or gelding used in drawing any hackney coach or carriage duly licensed by the commissioners of hackney coaches, where the same shall be licensed to go no greater distance than ten miles from the cities of London or Westminster; nor shall the said duties be payable for or in respect of any horse, mare, or gelding used for drawing any mourning coach or hearse, (c) where the same shall be used to go no greater distance than eight miles from Temple Bar in the city of London; nor shall the said duties be payable for or in respect of any horse, mare, or gelding which shall be used for drawing any cart or carriage kept or usually employed for the conveyance of fish."

Exemptions. (b)

Duties to be under the management of the commissioners of stamps.

Sect. 4. The said duties shall be under the care and management of the commissioners of stamps in Great Britain; which said commissioners are empowered to appoint and employ such officers and persons for that purpose, and to allow such salaries and incidental charges as shall be necessary, &c.

Commissioners of stamps to grant licenses and regulations as to the date and expiration of the licenses.

Sect. 5. "From and after the said 31st day of January, 1824, any two or more of the said commissioners of stamps, or some person duly authorized by them, shall grant licenses to any person or persons who shall apply for the same, to let any horses, mares, and geldings for hire as aforesaid; and all such licenses which shall be granted between the 31st day of January and the 16th day of March, in any year, shall be dated on the 1st day of February in that year, and all such licenses which shall be granted at any other time, shall be dated on the day on which the same shall be granted; and all such licenses respectively shall have effect and continue in force from the day of the date thereof until the 31st day of January following, both inclusive, and no longer; and no per-

(b) Where the defendant, an inn-keeper, contracted with a coach proprietor to furnish him with two additional horses to assist in dragging a stage-coach, carrying the mail, up a hill about three-quarters of a mile in length, in the course of each journey, for which he was to receive a guinea per week,—held, that such horses were not subject to the post-horse duty under either of the statutes 25 Geo. III. c. 51, or 44 Geo. III. c. 48 (now repealed), imposing such duty, as the stage-coach duty is to be regulated by the number of passengers such coach is licensed to carry, and not by the horses employed to draw it. *Douss v. Garrett*, 1 Bing. 107; 7 Moore, 441, S. C. A coach licensed under a local act, to be used as a stage, is not protected by such license from the post-horse duties, if hired wholly by an individual to perform a journey; and the proprietor is liable to account to the farmer of those duties

for one-fourth of the hire, if let by him to carry out and bring back, notwithstanding such hiring may be to go to and return from some place within the distance and on the road to the place specified in his license, and although he receive no greater hire than his fare would have been, had he proceeded full on the usual journey as a stage. *Fage v. Cokram*, 1 Price, 317.

A composition for saddle-horses under the asscated tax-act, 59 Geo. III. c. 51, was held not to protect the owner of such horses from his liability to pay the duty imposed by the 1 Geo. IV. c. 88, s. 3, where the same horses were let to hire to be used in travelling. *Ramsden v. Dodgkinson*, 2 D. & R. 625.

(c) Mourning coaches were not exempted under the 44 Geo. III. c. 98, by reason of carrying a corpse, if living persons went along in it. *White v. Beasley*, 1 B. & Ald. 166.

son or persons whatsoever, required by this act to be licensed, shall, unless he, she, or they shall have obtained a proper license in that behalf, let any horse, mare, or gelding for hire, to be used in any of the cases aforesaid, upon pain to forfeit for every horse, mare, or gelding, so let out for hire as aforesaid, the sum of 10*l*.: provided always, that no such license shall be granted to any person or persons applying for the same, until he, she, or they shall have entered into and given or renewed the security by bond (a), as by this act is directed and required."

SECT. 6. The said commissioners or their collectors shall supply all persons who shall be licensed to let horses, &c. for hire, with proper tickets and certificates, and the toll-gate keepers with proper exchange and check tickets, and the tickets for and in respect of every horse, &c., or of any number of horses, &c., let for hire by the mile, for drawing any carriage or vehicle conveying any person or persons, shall be adapted for the insertion of the day of the month, the month and year, on which every such horse, &c. shall be let for hire, the christian and surname of the person letting for hire, if not an innkeeper, or the name of his or her sign or description of house, if an innkeeper; and in either case the name of the place of his or her residence, the number of horses, &c., the number of miles, the names of the town or place (and if to London, the name of the street, square, or place), to which every such horse, &c. shall be hired to go; and the tickets for every horse, &c., or of any number of horses, &c., let for hire for a day or a less period of time, to be used within the distance of eight miles from the place of letting, for the purpose of drawing any carriage or vehicle conveying any person or persons, shall be adapted for the insertion of the day of the month, the month and year, on which every such horse, &c. shall be hired, the christian and surname of the person or persons letting, if not an innkeeper, or the name of his or her sign or description of house, if an innkeeper, and in either case the name of the place of his or her residence, and the number of horses, &c. so let; and the tickets for any horse, &c., or any number of horses, &c., let for hire to go no greater distance than eight miles from the place of letting, where such horse, &c., horses, &c., shall not bring back any person or persons, and shall not deviate from the usual line of road between the place of letting and the place or distance to which every such horse, &c. shall be hired to travel or go, for the purpose of drawing any carriage or vehicle conveying any person, shall be adapted for the insertion of the day of the month, the month and year, on which every such horse, &c. shall be let, the christian and surname of the person or persons letting, if not an innkeeper, or the name of his or her sign or description of house, if an innkeeper, and in either case the name of the place of his or her residence, the number of horses, &c. so let; and the tickets for every horse, &c., or of any number of horses, &c., let for hire for any period of time less than twenty-eight successive days, and in any other manner than by the mile, or to go no greater distance than eight miles, in either of the cases aforesaid, for the purpose of drawing any carriage or vehicle conveying any person, &c., shall be adapted for the insertion of the day of the month, the month and year, on which every such horse, &c. shall be hired, the christian and surname of the person or persons letting, if not an innkeeper, or the name of his or her sign or description of house, if an innkeeper, and in either case the name of the place of his or her residence, the number of horses, and the day, or number of days, for which every such horse, &c. shall be let for hire, and if such hiring shall be for any period of time exceeding one day, the name and place of residence of the person hiring such horse, &c., or horses, &c.; and the certificate for any horse, &c., any number of horses let for hire for twenty-eight successive days or more, for drawing any carriage or vehicle conveying any person, &c. as aforesaid, shall be adapted for the insertion of the day of the month, and month and year, upon which the hiring shall commence, the christian and surname and residence of the person letting, the name and residence of the person hiring, the number of horses, &c. let for hire, and the number of days for which the same shall be so let for hire; and the ticket by this act directed to be given by the keeper of any toll-gate or bar, in exchange for the ticket issued for any horse, &c. or any number

4 Geo. 4, c. 62.

Commissioners of stamps to deliver proper blank forms of tickets.

What tickets shall contain on lettings by the mile.

What tickets shall contain on lettings of horses to be used within the distance of eight miles from the place of letting.

What tickets shall contain on horses let to go no greater distance than eight miles from the place of letting.

What tickets shall contain on lettings for a day, or less period of time than twenty-eight days, &c.

What tickets shall contain on lettings for twenty eight successive days.

(a) See sect. 12, *post*, 163.

Sect. 9. "No postmaster, or other person whomsoever, licensed or to be licensed by authority of this act, shall by virtue of one license keep more than one inn, house, or other place for letting horses for hire, but that for each and every inn, house, or other place which any postmaster or other person shall keep for the purpose of letting horses for hire as aforesaid, a separate and distinct license shall be taken out and paid for by such postmaster or other person, upon pain to forfeit for every inn, house, or place, so kept by him, her, or them, at which any horse, mare, or gelding, shall be left for hire, and not named or described in any license granted or to be granted to him, her, or them, as aforesaid, the sum of 20*l*."

4 Geo. 4, c. 62.

No licensed postmaster to keep more than one house, by virtue of one license.

† *Stc.*

Penalty, 20*l*.

Sect. 10. "Every postmaster or other person so licensed to let horses for hire as hereinbefore mentioned, shall cause the words '*Licensed to let horses for hire*' to be painted or written in legible characters, either on a sign hung out from or fixed upon some visible place in the front of his, her, or their house, stables, or out-offices, at the respective places at which he, she, or they may be licensed to let horses for hire as aforesaid, to denote that such postmaster or other person is a letter of horses for hire: and if any postmaster or other person, so licensed as aforesaid, shall presume to let out for hire any horse, mare, or gelding, as hereinbefore mentioned, without hanging out or fixing such sign as aforesaid, every such postmaster or other person, so offending, shall, for every such offence, forfeit and pay the sum of 5*l*."

Licensed postmasters to have a sign in front of house.

Penalty, 5*l*.

Sect. 11. "Where any person or persons, who shall be licensed to let horses for hire in the manner aforesaid, shall keep any carriage or carriages, to be furnished at the same time with any horse or horses by him, her, or them, let for hire by the mile as aforesaid (except hearses and mourning coaches), he, she, or they shall, before such carriage or carriages shall be so furnished or used, cause the same to be numbered with different numbers, beginning with number one, and proceeding upwards progressively to the highest number of carriages which he, she, or they, shall so keep, and shall also mark or paint, or cause to be marked or painted, in one or more straight line or lines, on the outside pannel of each door of every such carriage which shall have a door thereto, and on some conspicuous part of each of the outsides of every such carriage which shall not have a door thereto, his, her, or their christian and surname, and the name of the city, town, or place where he, she, or they shall keep such carriage or carriages, in large and legible characters, and figures of black or white, whichever shall most differ from the colour of the figures whereon the same shall be marked or painted, each letter to be at least one inch in length, and each figure at least one inch and an half in length, and both letters and figures to be of a proper breadth in proportion to the length thereof respectively, and shall continue the same on every such carriage, as long as such carriage shall be kept for the purpose aforesaid, varying the numbers on such carriage from time to time as occasion shall require, so as to make the same correspond with the actual number of such carriages which he, she, or they shall then keep; and if any person or persons, so licensed as aforesaid, shall neglect or omit to number, mark, or paint any such carriage in manner aforesaid, or shall mark or paint, or cause to be marked or painted thereon, any false or fictitious name or place of residence, or any higher number than the greatest number of such carriages which he, she, or they shall then keep, or shall keep two or more such carriages with the same number marked or painted thereon, or shall continue any number upon any such carriage after he, she, or they shall cease to keep any number of such carriages corresponding therewith, he, she, or they shall, for every such offence, forfeit and pay the sum of 10*l*."

Carriages kept to be let with horses to be numbered, and the name painted thereon. (a)

Penalty, 10*l*.

Sect. 12. Every postmaster or other person so licensed shall, at the time of receiving his first license, give security by bond to his majesty, in the sum of 50*l*., with a condition that he will, whenever thereunto required, re-deliver,

Persons on receiving first license to give security by bond, conditioned to account for the stamp-office tickets, &c.

(a) A carriage let to hire for less than twenty-eight days (not being let by the mile or stage), was not required

to be numbered by the 48 Geo. III. c. 98. *Sergeant v. Smirithwaite*, *Wright*, 73.

4 Geo. 4, c. 62.

Security to be renewed, &c.

Collector to transmit bonds, and an account of persons licensed, every three months, to commissioners of stamps.

Penalty, 100*l*.

Duty on appointments of collectors. Postmasters' bonds.

Persons letting horses shall be chargeable with the duty.

Postmasters, &c. receiving the hire of any horse shall be liable to duty.

Where postmasters, &c. cannot furnish horses to travellers, to give a new ticket.

Persons not licensed to be accountable for duties same as licensed persons.

or cause to be re-delivered, all the stamp-office tickets which he may have received, and that may remain unaccounted for by him, or that he will pay the value of such tickets, to be ascertained as herein mentioned; and that he will also deliver to the person or persons properly authorized by the said commissioners of stamps, the stamp-office weekly accounts so delivered to such postmaster or other person, faithfully made out and signed as hereinafter directed, and make payment of all such sums of money as shall be due and payable to his majesty according to the intent and meaning of this act; and also that he shall and will truly and faithfully observe and perform all the directions, matters, and things herein contained, on his behalf to be observed and performed: provided always, that every postmaster or other person so licensed is hereby required to renew from time to time such security by bond to his majesty, conditioned as aforesaid, at the expiration of three years from the date of the first, or if more than one bond shall have been given, at the expiration of three years from the date of the last preceding bond, by another bond conditioned as aforesaid; and in case of the non-performance or breach of any such condition, or any part thereof, it shall be lawful for the said commissioners, or the persons so appointed by them, to cause every such bond to be prosecuted, and in case of judgment against the defendant, the said commissioners may, if they shall think fit, refuse to grant to such person any license in future.

Sect. 13. "Every person appointed a collector under this act shall, at or before the expiration of every three months, transmit and send to the said commissioners of stamps every bond given as a security to his majesty, as aforesaid, which may have been taken from any postmaster or other person, conditioned as hereinbefore set forth, and shall also make out and deliver, within the time aforesaid, an account or list in writing of the licenses granted by him, as such collector as aforesaid, to any person or persons to let horses, mares, or geldings for hire as aforesaid, which list or account shall specify the christian and surname of the person or persons licensed, the place of residence, the names of the inn (if any), and the date of every such license; and if any such collector shall neglect or refuse to transmit and send every such bond, account, or list as aforesaid, he shall for every such neglect or refusal forfeit and pay the sum of 100*l*."

Sect. 14. No deputation or commission to be hereafter granted, appointing any person to be a collector of the said duties on horses let for hire, shall be chargeable with any higher stamp duty than 1*l*. 15*s*.; and no bond by this act required to be given by any postmaster or other person, shall be charged or chargeable with any higher stamp duty than 10*s*.

Sect. 15. Every postmaster or other person letting any horse &c. for hire shall be chargeable with the payment of the duty by this act imposed in respect of every such letting for hire, whether the person letting such horse shall have received such duty or not; and every postmaster or other person who shall receive the hire for any horse, shall be considered as the person to whom the duties shall be paid, and shall be chargeable with and accountable for the same, as if such postmaster or other person was the actual proprietor of such horses, although the same may belong to and be the property of some other licensed postmaster or other person; and where any postmaster or other person so licensed, at whose inn, house, or other place any person shall apply to change horses, if he cannot furnish horses to convey such person on his journey, when applied to for that purpose, such postmaster or other person shall, and he is hereby directed to issue, to any person requiring the same, a fresh ticket properly filled up, and to receive the duty due thereon, and to charge himself therewith in the same manner as if such horses had been hired from such postmaster or other person.

Sect. 16. "If any person or persons not being licensed to let horses for hire as aforesaid, shall, after the said 31st day of January, 1824, let for hire any horse, &c. horses, &c. as aforesaid, he, she, or they shall be chargeable with and accountable for the duty or duties hereby made payable for and in respect of every horse, &c. which shall be so let for hire, in such and the same manner as if he, she, or they had obtained such license as aforesaid, and had

received such duty or duties of and from the person or persons hiring such horse, &c. as aforesaid; and shall from time to time, upon a week's notice (b) in writing for that purpose, given by any collector of the said duties for the county, district, or place where he, she, or they shall so let any horse, &c. for hire as aforesaid, deliver to such collector, whenever by him requested, after the expiration of such notice, a true account in writing, signed by him, her, or them, of every such horse, &c. which he, she, or they shall have let for hire in the manner aforesaid, and shall not then have already accounted for, and of the mode and manner in which every such horse, &c. shall have been let for hire, and of the duty or duties payable in respect thereof, in such and the same manner as is hereby required to be done by persons licensed to let horses for hire as aforesaid; and shall also verify such account by oath or affirmation (to be administered by such collector), in like manner as licensed persons are hereby required to do, and shall thereupon pay to such collector the amount of such duty or duties; and in case of any refusal or neglect so to do, then he, she, or they shall forfeit and pay the sum of 20*l.* for every default in not delivering such account, verified as aforesaid, and double the amount of the duty or duties which he, she, or they shall be then chargeable with: provided always, that where any such notice shall have been given, and request made for the delivery of such account as aforesaid, then upon the delivery of such account, and payment of the duty due thereon, in pursuance of such notice and request, and upon taking out such license or licenses as ought to have been taken out by him, her, or them, previously thereto, the person or persons so delivering such account shall be indemnified and discharged from any penalty or penalties which he, she, or they may be then liable to, in consequence of having let for hire any horse, &c. horses, &c. in the manner mentioned in such account, without having obtained such license as aforesaid."

Sect. 17. "No person hiring any horse, mare, or gelding, shall be compelled to pay for a greater number of miles for the hire of such horse, &c. horses, &c. than shall be expressed upon the ticket by this act directed to be delivered to such person; and if any postmaster or other person so licensed as aforesaid shall insert in such ticket the name of any other town or place than the town or place to, or to and from, which the horse, &c. horses, &c. shall be hired to go, or to go and return, or a less number of miles, every postmaster or other person so offending shall for every such offence forfeit and pay the sum of 10*l.*; and the said commissioners shall, if they think fit, after conviction of such offender, refuse to grant such offender any license in future."

Sect. 18. If any postmaster, or other person licensed to let horses for hire, shall die or become insolvent, it shall and may be lawful for his or her executors or administrators, assignees or trustees, or other persons succeeding to or taking possession of such inn, house, or other place, to let horses for hire, until such time as such person shall procure such license, and give such security, as herein-before directed, without being liable to the penalty herein-before imposed upon persons letting horses for hire without being licensed, provided that such license be taken out within thirty days after the death or insolvency of such postmaster or other person; and such person or persons shall be subject to the same rules, regulations, and charges, and liable to account for and pay the duties hereby imposed, in like manner as such postmaster or other person.

Sect. 19. Every postmaster or other person who shall let any horse, &c. horses, &c. for hire, shall, by himself or servants, previous to the using any such horse, &c. horses, &c. deliver, or cause to be delivered, to the person or person hiring any such horse, &c. horses, &c. "one or more ticket or tickets, properly filled up as to all the particulars hereinbefore mentioned, which shall be applicable to the hiring of such horse, &c.; and every postmaster, or other person, who shall let for hire any horse, &c. horses, &c. for twenty-eight successive days or more, shall, in like manner aforesaid, deliver, or cause to be delivered, to the person hiring such horse, &c. horses, &c. one or more of the certificates hereinbefore mentioned, properly filled up as to the several particulars hereinbefore-

4 Geo. 4, c. 62.

Account to be delivered on a week's notice from the collector, verified on oath as to certain particulars.

Penalty, 20*l.*, and double the amount of duties.

Indemnification on accounting for the duties, and on taking out license.

No person shall pay for more miles than shall be expressed in the ticket.

Penalty on not filling up the ticket truly, 10*l.*

In case of death, &c., of licensed postmaster, the executor, &c., to be accountable for duties;

but license must be taken out within thirty days.

Postmaster, &c., to deliver tickets properly filled up.

(b) See *R. v. Bessell*, 6 T. R. 75; *Serjeant v. Tilbury*, 16 East, 416.

4 Geo. 4, c. 63.

mentioned, in respect of every such letting for hire; and if any postmaster or other person as aforesaid, under any pretence whatsoever, shall neglect or refuse to deliver to the person or persons hiring any such horse, &c. horses, &c. one or more of the tickets or certificates herein-before directed to be delivered to such person or persons, properly filled up as to the several particulars herein-before mentioned, applicable to such respective letting for hire, such postmaster or other person shall, for each and every such neglect or refusal, forfeit and pay the sum of 10*l*.

Penalty, 10*l*.

When horses are given up within the period for which they were hired, the check-ticket shall be delivered up to collector.

Sect. 20. "Where any person so licensed to let horses for hire as aforesaid, shall let for hire any horse, &c. for twenty-eight successive days or more, and such horse, &c. shall be given up and returned to the person letting the same before the expiration of the time for which such horse, &c. shall have been so let for hire, the person or persons so letting such horse, &c. shall, at the time of receiving back such horse, &c. ask for and receive of and from the person or persons so returning or giving up such horse, &c., the check-ticket which he, she, or they shall have received in exchange for the original ticket or certificate delivered to him, her, or them, on the letting for hire such horse, &c. horses, &c., and shall, within three days after the return of such horse, &c. deliver up or transmit such check-ticket to the collector of the aforesaid duties, to whom he, she, or they shall be bound to deliver his or her stamp-office weekly account; and if any person so licensed as aforesaid shall refuse or neglect to ask for such check-ticket, or, having received the same, shall refuse or neglect to deliver it up or transmit the same to the said collector within the time aforesaid, he, she, or they shall for every such offence forfeit and pay the sum of 20*l*.; and if he, she, or they shall use any such check-ticket, or permit the same to be used, or give out the same to any person or persons for the purpose of being used, to cover and protect any other letting for hire whatever from the duty hereby granted, he, she, or they shall, for every such offence, forfeit and pay the sum of 50*l*."

Penalty, 20*l*.

Penalty for using a check-ticket improperly, 50*l*.

Sect. 21. "Every person hiring any horse, &c., before using the same, shall receive of and from the person or persons letting the same, one or more of the tickets or certificates, properly filled up as to the several particulars in that behalf hereinbefore mentioned, which shall be applicable to the hiring of such horse, &c., and shall leave and deliver, or cause to be left and delivered, every such ticket or certificate with the keeper of any toll-gate or bar, at the first toll-gate or bar which the person hiring or using any such horse, &c., shall pass or go through, and shall ask for and receive of and from such keeper of any toll-gate or bar the necessary exchange or check-ticket as aforesaid, containing the several particulars in that behalf hereinbefore mentioned, which shall be applicable to the hiring of any such horse, &c.; which exchange or check-ticket shall be produced and shown by the person hiring or using any such horse, &c., at every toll-gate or bar through which he or she shall afterwards pass or go with such horse, &c., at any time within the period for which such horse, &c., shall have been let for hire, as aforesaid."

Penalty on persons falsely alleging horses to be their own, 10*l*.

Sect. 22. "If any person hiring or using any horse, &c. horses, &c. shall neglect or refuse to deliver, produce, or show, at any toll-gate or bar, the ticket, exchange-ticket, certificate, or check-ticket, which he or she ought, according to the provisions of this act, to deliver, produce, or show at such toll-gate or bar, and shall falsely allege such horse, &c., with which he or she shall pass such toll-gate or bar, to be his or her own horse, &c., and not a hired horse, &c., in order to avoid being stopped, or to avoid the payment of the sum which the keeper of any toll-gate or bar shall be entitled to demand, in default of such ticket, exchange-ticket, certificate, or check-ticket, being delivered or shown, as aforesaid, every person so offending shall, for every such offence, forfeit and pay the sum of 10*l*."

Mode of calculating duty where specific sums are charged for the hire of horses, &c.

Sect. 29. In calculating the amount of duty to be paid, when the same shall be one-fifth part of the sum charged for any letting for hire of any horse, &c. horses, &c., such one-fifth part shall be calculated upon the whole sum charged by such postmaster or person for such horse, &c. horses, &c. so let for hire, and of the carriage (if any) used therewith; and, in calculating the amount of the duty to be paid, no fractional part of any sum less than one penny shall be charged in respect of any part of the said duties; and, the inn, house, or other

place, at which any person shall be licensed to let horses shall be deemed to be the place of letting; and where any horse, &c., which shall have been let for hire for any period of time, and shall be retained beyond the expiration of the time without a new hiring, every such horse, &c., shall be deemed, so far as relate to the duties, to have been retained and kept upon a hiring similar to that for which every such horse, &c., was originally let for hire.

Sect. 30. "All and every person and persons letting horses for hire as aforesaid, shall insert and set forth in his, her, or their stamp-office weekly account the several particulars following (that is to say): whenever he, she, or they shall let for hire by the mile any horse, &c. the day of the month, the month and year, for which such horse, &c. shall be let for hire; the names of the towns or places from which and to which, or from which and to which and back again, such horse, &c. shall be hired to go; the number of every carriage which he, she, or they shall furnish with any such horse, &c. (if by this act required to be numbered); the christian and surname of every postillion or driver employed therewith; the number of horses, &c., so let for hire; and also the amount of the duty payable for and in respect of every such letting for hire; and, whenever such person or persons letting horses for hire as aforesaid, shall let for hire for a day or less period of time, to be used within the distance of eight miles from the place of letting for hire any horse, &c. as aforesaid, for the purpose of drawing any carriage conveying any person or persons as aforesaid, any horse, &c. he, she, or they, shall insert and set forth, in his, her, or their stamp-office weekly account the several particulars following (that is to say): the day of the month, the month and year, on which such horse, &c. shall be let for hire; the number of every carriage, if by this act required to be numbered; the christian and surname of every postillion or driver employed with such horse, &c.; the number of horses, &c. so let for hire; and the amount of the sum charged for such letting for hire; and shall be answerable and accountable for one-fifth part of such sum of money so charged, or for the sum of 1s. 9d. for each horse, &c. so let for hire; and shall enter in his, her, or their stamp-office weekly account such one-fifth part of such sum charged, or the sum of 1s. 9d. for each horse, &c. as and for the duty payable in respect of any horse, &c. so let for hire as aforesaid. And whenever any such person or persons shall let for hire as aforesaid, any horse, &c. to no [go no] greater distance than eight miles from the place of letting for hire any horse, &c.; where such horse, &c. shall not bring back any person or persons, and shall not deviate from the usual line of road between the place of letting and the place or distance to which every such horse, &c. shall be hired to travel or go, for the purpose of drawing any carriage or vehicle conveying any person or persons as aforesaid, they shall insert and set forth, in his, her, or their stamp-office weekly account the several particulars following (that is to say): the day of the month, and month and year, on which such horse, &c. shall be so let for hire; the number of every carriage, if by this act required to be numbered; the christian and surname of every postillion or driver employed with such horse, &c.; the number of horses, &c. so let for hire; and also the amount of the duty payable for and in respect of every such letting for hire, as aforesaid. And whenever such person or persons letting horses for hire, as aforesaid, shall let for hire for any period of time less than twenty-eight successive days, and in any other manner than by the mile, or to go no greater distance than eight miles in either of the cases aforesaid, any horse, &c. he, she, or they shall insert and set forth in his, her, or their stamp-office weekly account the several particulars following (that is to say): the day of the month, the month and year, on which such horse or horses shall be let for hire, and from and to what place, or from and to what place and back again, such horse, &c. shall be hired to go; the number of every carriage which shall be furnished therewith, if by this act required to be numbered; the christian and surname of every postillion or driver employed with such horse, &c.; the amount of the sum charged for the hire or use of such horse, &c.; the time for which the same shall be let for hire or used; the number of horses, &c. so let for hire; and, where the distance shall be ascertained, the number of miles which the same shall be hired to go, or to go and return; and, in all cases, the amount of the duty payable for and in respect of every horse upon every letting for hire or using. And whenever such

4 Geo. 4, c. 62.

Particulars to be inserted in stamp office weekly accounts.

In cases of lettings by the mile.

In cases of lettings of horses to be used within the distance of eight miles from the place of letting.

In cases of lettings of horses to go no greater distance than eight miles from the place of letting.

† *Sic.*

In cases of lettings of horses for less than twenty-eight days.

In cases of lettings of horses for twenty-eight days and more.

4 Geo. 4, c. 62.

person or persons letting horses for hire, as aforesaid, shall let for hire, for twenty-eight successive days or more, any horse, &c. as aforesaid, he, she, or they shall insert and set forth in his, her, or their stamp-office weekly account the several particulars following (that is to say): the number of horses, &c. so let for hire; the day of the month, the month and year, on which such hiring shall commence; the number of every carriage which shall be furnished therewith, if by this act required to be numbered; the christian and surname of every postillion or driver employed with such horse, &c.; the time for which the same shall be hired, and the name and place of abode of the person hiring the same; and he, she, or they shall also insert in every such account a memorandum or notice of all horses, &c. which shall have been let for hire by him, her, or them, as aforesaid, for twenty-eight successive days or more, and which, since the date of his, her, or their last account, shall have been given up and returned to him, her, or them, by the hirer before the expiration of the time for which such horse, &c. shall have been let for hire, and the day of the month on which the same shall have been so given up and returned, and shall be answerable and account for one-fifth part of the sum received, or agreed to be received, for such letting for hire, or using for and in respect of every such horse, &c. or the sum of 2s. 6d. for each day not exceeding three days, and the sum of 1s. 9d. for each day exceeding three days, and not exceeding thirteen days, and the sum of 1s. 3d. for each day exceeding thirteen days, and less than twenty-one days, during the time every such horse, &c. shall have been under the direction of the person or persons hiring the same, by virtue of such letting for hire as aforesaid; and, in case of any refusal or neglect of any person or persons letting any horse, &c. for hire as aforesaid, to insert in his, her, or their stamp-office weekly account the particulars herein-before respectively mentioned, or any or either of them, applicable to each letting for hire, such person or persons shall, for each and every such refusal or neglect, forfeit and pay the sum of 20l."

Persons letting horses as herein mentioned,

Penalty, 20l.

Entries to be made in account the day the horses are let or returned.

Penalty, 40s.

Stamp-office account to be open for inspection of collector.

Penalty, 10l.

When and where licensed persons should deliver account and pay duty.

Penalty for neglect in not delivering account and paying the duty.

Sec. 31. "Every person so licensed as aforesaid, who shall let for hire any horse, &c. as aforesaid, shall enter or cause to be entered in his, her, or their stamp-office weekly account the several particulars by this act required to be inserted therein, on the same or following day on which any such horse, &c. shall be so let for hire, or so given up and returned as aforesaid; and, in default thereof, he, she, or they shall, for every such default, forfeit and pay the sum of 40s."

Sec. 32. "The stamp-office weekly account required to be kept by every postmaster or other person licensed to let horses for hire as aforesaid, shall be open for the inspection and examination, at all reasonable times, of the said commissioners of stamps or any collector appointed by them as aforesaid; and if any postmaster or other person as aforesaid shall refuse to permit and suffer the said commissioners of stamps or any collector appointed by them as aforesaid, at any reasonable time, to inspect his, her, or their stamp-office weekly account, such postmaster or other person so licensed as aforesaid shall, for every such refusal as aforesaid, forfeit and pay the sum of 10l."

Sec. 33. "Every person licensed as aforesaid, residing in the city of London or liberty of Westminster, or within the distance of five miles from the head office of stamps, or within the bills of mortality, shall attend and deliver his or her stamp-office weekly accounts, and pay the duties for which he, she, or they shall be accountable unto the said commissioners of stamps, at the said head office, or to some collector authorized to receive the same, at such place and at such time as shall be appointed for that purpose, by a notice to be written or printed upon the blank forms of the stamp-office weekly accounts, which shall from time to time be delivered to him or her by any authorized collector of the said duties, for the purpose of making therein the entries required by this act, provided such place be not at a greater distance than two miles from the said head office; and every person so to be licensed as aforesaid, not residing within five miles of the head office of stamps, or within the bills of mortality, shall attend and deliver his, her, or their stamp-office weekly accounts, and pay the duties for which he, she, or they shall be accountable unto the collector authorized to receive the same, at such place in the market town in which he, she, or they

shall reside, or in the nearest market town to his, her, or their place of residence, and at such time as shall be appointed for that purpose by a notice to be written or printed upon the blank forms of the stamp-office weekly accounts, which shall from time to time be delivered to him, her, or them, by any authorized collector of the said duties, for the purpose of making therein the entries required by this act, under the penalty of 10*l.* for every default in not delivering such account, and double the amount of the duties due and payable by such licensed persons."

4 Geo. 4, c. 92.

Sect. 34. For the more effectually taking an account of the several duties imposed by this act, and preventing frauds therein, it is enacted, that from and after the said 31st day of January, 1824, every postmaster or other person so licensed shall, at the times of delivering his account or accounts, make oath, or, being one of the people called Quakers, make and subscribe a solemn affirmation, before such commissioners or other person authorized as aforesaid, who are hereby empowered to administer the oath to the truth of the account then delivered, in the form following:—

Postmaster to make oath of truth of account.

"*I, A. B., do swear [or affirm, in the case of a Quaker], that the Stamp-Office weekly account [or accounts] now delivered by me, doth or do contain a just and true statement of the number of horses, mares, and geldings which have been let for hire by me, or my servants, or on my account and behalf, from the day of to the day of , both inclusive, together with the manner in which such horses, mares, and geldings have been so let for hire as aforesaid, and also the full amount of the duty due and payable by me, or for which I am chargeable or accountable, for or in respect of every such horse, mare, or gelding, so let for hire by me, or on my account, as aforesaid, during the time aforesaid; all which said statements, matters, and things, and all the other particulars contained in the said account or accounts, so far as regards myself and my own acts, are true, and so far as regards the acts of my servants, or of any other person or persons on my behalf, are true, to the best of my knowledge and belief. So help me God.*"

Form of oath.

Which said oath or affirmation shall be made and subscribed before the said commissioners or person authorized to receive such account or accounts, and to administer such oath or affirmation; and if any person making such oath or affirmation shall knowingly and wilfully make a false oath or affirmation, every person so offending, and being thereof lawfully convicted, shall be subject to the pains and penalties of wilful and corrupt perjury.

Sect. 35. And to prevent disputes as to the rate or value at which any of the tickets, delivered in pursuance of this act to postmasters, &c. and which may remain unaccounted for on the 31st day of January in each year, shall be settled and accounted for: it is enacted, that every such ticket, which shall remain unaccounted for at the time aforesaid, shall be valued in account and paid for at the rate of 1*s.* for each horse, according to the number of horses expressed by figures on such ticket, and in the receipt given by such postmasters, &c. for the same.

How lost tickets are to be paid for.

Sect. 36. The receiver-general at the head office, and the said other collectors appointed to receive the duties hereby imposed, shall, at the time of settling the accounts of the several postmasters, &c. allow to such postmasters, &c. and deduct from their accounts, at and after the rate of 3*d.* in the pound out of the monies by them regularly accounted for, and paid to such receiver-general or collector.

Allowance to postmasters.

Sect. 37. And for the convenience of persons residing in cities or populous towns (other than the cities of London and Westminster, or the borough of Southwark), letting for hire or using horses, &c. for drawing coaches or other carriages, to be used as or in the nature of hackney coaches, and for rendering it unnecessary for such persons, in respect of horses, &c. let for hire or used as last aforesaid, to keep the weekly accounts hereby directed to be kept by persons letting horses for hire; it is enacted, that every person letting for hire or using any horse, &c. for drawing any such coach or carriage, to be used as or in the nature of a hackney-coach, any distance not exceeding five miles from the general post-office of any city, town, or place (such coach or carriage not being licensed as a carriage or vehicle conveying passengers for hire at separate fares, as a public stage coach or carriage), shall be subject to the payment of the

Horses used in coaches standing for hire, as hackney-coaches, to pay a weekly duty.

4 Geo. 4, c. 63.

Proviso in respect of such horses going more than five miles from the general post-office of such place.

License to be taken for such coach.

Number, name, &c. of places to be painted thereon.

Proviso for carriages regularly used.

Information, &c. for penalties.

Proviso for carriages subject to local acts.

Duties not exceeding 20*l.* may be recovered by distress.

duties following; (that is to say), the sum of 5*s.* per week for the horses let for hire, or used for drawing every such coach or carriage used as a hackney-coach, when drawn by two horses; and the sum of 3*s.* per week for every horse let for hire, or used for drawing any such coach or carriage used as a hackney-coach, when drawn by one horse, in lieu of the duties by this act chargeable upon horses let for hire: provided always, that if any horse used for drawing any such coach or carriage, shall go a greater distance than five miles from any such general post-office, the person letting for hire or using any such horse shall be subject to the same rules and regulations, and shall be chargeable with and accountable for the duties hereby generally imposed in respect of horses let for hire; and provided also, that the person letting for hire or using any horse for drawing any such coach or carriage, as a hackney-coach, shall take out a license expressly authorizing him so to do, and shall cause every such coach or carriage to be numbered, and shall cause his christian and surname, and the name of the city, town, or place to be painted and inscribed upon the outside pannel of each door, or upon some conspicuous part of such coach or carriage, in like manner as is hereinbefore directed in respect of carriages kept to be furnished or used with horses let for hire, under the like penalties as are hereby imposed upon persons neglecting to take out licenses; or to number or cause to be numbered any coach or carriage kept to be furnished or used as aforesaid; or to paint or cause to be painted thereon the name of the person letting to hire or using any such horse, and the name of the city, town, or place where such coach or other carriage shall be kept; and every person letting or using such horse or horses for hire, for drawing such coach or carriage used as a hackney-coach, shall attend and pay the said weekly duties at such times and places as persons licensed to let horses for hire are required by this act to do, and shall be subject to the like penalties for any neglect or default in attending and paying such duties; provided also, that nothing in this clause contained shall be construed to exempt from the payment of the general duties by this act imposed, any person letting horses for hire to draw any such coach or carriage, unless such coach or carriage shall be regularly and constantly used, and shall regularly and constantly ply in the public streets of some city or town as a hackney-coach; and in all informations, actions, suits, or other proceedings in any of his majesty's courts of record, or before any justice or justices of the peace, respecting the payment of any duty, or the recovery of any penalty in respect of any horse or horses used in drawing any such coach or carriage, the proof of such coach or carriage being a coach or carriage regularly and constantly used, and regularly and constantly plying in the public street, as aforesaid, shall be upon the person letting such horse or horses; and provided also, that nothing in this act contained respecting the licenses to be taken out by persons letting for hire or using any horses for drawing any coaches or carriages to be used as hackney-coaches, or respecting the painting the names or numbers upon such coaches, shall be construed to extend to coaches or carriages which are or hereafter may be subject to the provisions contained in any local act or acts of Parliament.

Sect. 38. From and after the said 31st day of January, 1824, where any person or persons liable to account for and pay any duties granted by this act, shall refuse or neglect to account for and pay the same to the collector for the county, district, or place where he, she, or they shall have let to hire such horses, and such duty shall not exceed the sum of 20*l.*, it shall be lawful for such collector, first obtaining a warrant for that purpose under the hand and seal or hands and seals of any one or more justices of the peace residing near the place where any such letting shall have been made (which justice or justices, on complaint, shall summon the party complained of, and the witnesses on either side, and examine into the matter of fact, and shall grant such warrant, on due proof being made of the sum due, by the voluntary confession of the party, or by the oath of one or more witness or witnesses), to distress such person by his goods and chattels, for the amount of such duties, and the distress taken to detain and keep for the space of five days, at the costs and charges of such person; and if he shall not within that time pay the amount of such duties, with the costs of such distress, then the goods and chattels so dis-

trained shall be sold by such collector, who shall render the overplus (if any), after deducting the amount of such duties, and the costs of distress, to the person or persons distrained; and it shall be lawful for such collector, for the purpose of taking such distress, to break open in the day-time any house or place where any goods or chattels of such person or persons shall be, being thereunto authorized by such warrant as aforesaid, and calling to his assistance a constable, tithing-man, or headborough, or other officer of the county, shire, stewartry, city, town, or place where any refusal or resistance shall be made, which said officers are hereby required to aid and assist therein; and the leaving of the summons to appear before such justice or justices at the dwelling-house or usual or last known place of abode of the party complained of, shall be deemed a good service thereof.

4 Geo. 4, c. 62.

Service of summons.

Sect. 39. From and after the said 31st day of January, 1824, all the horses, &c. kept for the purpose of being let for hire, and also all the coaches, chaises, and other carriages, harness, and other articles and things kept and used with such horses, &c., in the custody or possession of such postmaster or person letting horses for hire, or of any other person or persons, for the use and on the account of or in trust for such postmaster or other person, shall be liable to and chargeable with the said duties in arrear, or which shall become due from time to time, from such postmaster or person, for any horses, &c., which shall have been let for hire by him, or by any other person for his use or account.

Chaises and horses, &c., of postmasters, to be liable to duty.

Sect. 40. Every postmaster, or other person letting horses for hire, who shall be guilty of any wilful concealment, or of making any false account, or any other fraudulent contrivance, device, or pretence whatsoever, with an intent or design to defraud his majesty, or any person or persons, of any of the duties imposed by this act, shall forfeit the sum of 50*l.*, and the said commissioners of stamps shall, if they think fit, after judgment obtained, refuse to grant such offender any license in future.

Wilful frauds by postmaster, &c. penalty for, 50*l.*

III. Toll-Gate Keepers.

By the 4 Geo. IV. c. 62, s. 23, "the keeper of every toll-gate or bar in any city, town, or other place through which any horse, &c. let for hire for drawing any carriage or vehicle as aforesaid, shall or may first pass or go, shall ask and demand of and from the person or persons using such horse, &c. the ticket or tickets, certificate or certificates, issued for and in respect of such horse, &c.; and every such keeper of such toll-gate or bar shall deliver to the person or persons hiring or using any such horse, &c. one or more exchange-tickets or check-tickets, properly filled up as to the particulars in that behalf hereinbefore mentioned, and shall receive and write his or her name upon and file all and every such ticket or tickets, certificate or certificates; and every such keeper of such toll-gate or bar is hereby authorized and empowered to prevent any horse, &c. let for hire in any of the ways aforesaid, passing or going through such toll-gate or bar, unless the person or persons hiring or using any such horse, &c. shall first deliver or produce and show to the keeper of such toll-gate or bar the necessary ticket, certificate, exchange-ticket, or check-ticket aforesaid, containing and specifying the particulars in that behalf herein-before mentioned, which shall be applicable to the hiring of such horse, &c. or shall pay or offer to pay to the keeper of such toll-gate or bar the sum of 1*s.* 9*d.* for and in respect of every such horse, &c.; which sum or sums the keeper of such toll-gate or bar is hereby authorized to ask, demand, and receive to and for his or her own use and benefit."

Toll-gate keepers to demand tickets and certificates, and give check-tickets and certificates in exchange.

Persons not suffered to pass without producing the proper ticket, &c., or paying 1*s.* 9*d.* for every such horse, &c.

Sect. 24. "If any keeper of any toll-gate or bar shall neglect to ask and demand, or shall refuse to receive from any person hiring or using any horse, &c. any ticket or certificate hereby directed to be delivered to such keeper of any toll-gate or bar as aforesaid, or shall neglect or refuse to write his or her name, or to file the same when delivered, such keeper of such toll-gate or bar as aforesaid, shall, for every such offence, forfeit and pay the sum of 10*l.*"

Penalty on toll-gate keeper for neglect, 10*l.*

4 Geo. 4, c. 62.

Toll-gate keepers neglecting to give exchange and check-tickets,

or allowing any person, except collector, to inspect tickets, penalty 10*l*.

Toll gate keepers, within five miles from head stamp office to deliver tickets to the head office of stamps, and if beyond that distance, the tickets to be delivered to collector.

Penalty, on neglect of delivery, 20*s*. for each ticket.

Allowance to toll-gate keepers.

Collector or person authorised to pay same.

Collector or other person authorized may attend at any toll-gates, and receive and examine tickets.

Toll-gate keeper, &c. obstructing, &c. penalty 20*l*.

Sect. 25. "If any keeper of any toll-gate or bar shall neglect or refuse to give any person or persons hiring or using any horse, &c. the ticket or tickets hereby directed to be given in exchange, or shall deliver an exchange or check ticket, without having first received the necessary ticket or certificate containing the particulars in that behalf herein-before mentioned, applicable to the hiring of any horse, &c. as aforesaid; or shall make, or permit or cause or suffer to be made, any alteration whatever in any ticket hereby authorized to be received and filed by him or her, after any such ticket shall have come to his or her possession or custody; or shall deliver any ticket herein-before directed to be received and filed by him or her, to any person or persons other than the person or persons duly authorized as herein mentioned to receive the same; or shall permit or suffer any person or persons to examine, see, or inspect any ticket or tickets directed to be by him received and filed, as aforesaid, other than the person or persons duly authorized to receive such ticket or tickets; or if any keeper of any toll-gate or bar shall ask, demand, or receive, or agree to take or accept, any less sum or sums of money than he or she is hereby authorized to ask, demand, and receive, and retain to his or her own use, every such keeper of any toll-gate or bar, as aforesaid, offending in any or either of the cases aforesaid, shall, for every such offence, forfeit and pay the sum of 10*l*."

Sect. 26. "The keeper of every toll-gate or bar, within the distance of five miles from the head office of stamps in the city and liberties of Westminster, shall bring, or cause to be brought, all and every the tickets and certificates required by him or her to be received to the said head office, or to such other place within the bills of mortality as the said commissioners shall appoint; and if such toll-gate or bar shall be beyond the distance of five miles from the head office aforesaid, then the keeper of every such toll-gate or bar shall bring, or cause to be brought, all and every the tickets and certificates by him or her received, as aforesaid, to such places and at such times as the collector appointed to collect such tickets and certificates shall require, provided such places shall not be at a greater distance than the nearest market-town; and such keeper of every such toll-gate or bar shall, upon demand made to him or her for that purpose, deliver up, or cause to be delivered up, all such tickets and certificates as aforesaid to the collectors to be appointed as aforesaid; and if any keeper of any toll-gate or bar shall neglect or refuse to attend with and deliver up all and every the ticket or tickets, certificate or certificates, so received by him or her as aforesaid at the time and place hereinbefore mentioned in that behalf as aforesaid, every such keeper of any toll-gate or bar shall, for each ticket or certificate he or she shall so neglect or refuse to deliver up, forfeit and pay the sum of 20*s*."

Sect. 27. "For the encouragement of the keepers of the toll-gates or bars, in the execution of this act, and as a compensation for their trouble," it is enacted, "that every keeper shall be authorized to demand and receive, from the collector or other person appointed to get in such tickets, and to whom such keeper shall deliver such tickets, the sum of one farthing for each horse specified in any ticket; and also the sum of one farthing for each such horse for every day more than one and less than twenty-eight successive days in such tickets mentioned; and such collector or other person is hereby authorized to pay and allow the same accordingly, which allowance shall be over and above the allowance or privilege hereby given to such keepers of any toll-gate or bar, of retaining the money by him or them collected from such persons who shall not, pursuant to this act, deliver, produce, or show the ticket, exchange-ticket, certificate, or check-ticket, as is before directed."

Sect. 28. "It shall and may be lawful for any collector, or other person duly authorized as aforesaid, from time to time to enter into and remain in any toll-house or other place at the gate or bar of which any toll is by law payable, for the purpose of examining and receiving the tickets and certificates by this act directed to be delivered; and if any keeper of any toll-gate or bar, or any other person or persons, shall refuse to permit any collector, or other person authorized as aforesaid, from time to time to enter into and remain in any such toll-house or other place as aforesaid, or to examine and receive such tickets or certificates as aforesaid, or shall obstruct, hinder, or molest such collector or other person

so authorized in entering into and remaining in such toll-house or other place as aforesaid for the purpose of examining and receiving such tickets or certificates; or if any keeper of any toll-gate or bar, or any other person or persons, shall in any way hinder, molest, interrupt, or disturb any such collector, or other person authorized as aforesaid, in the reasonable use of such toll-house or other place as aforesaid, for the purpose aforesaid, every keeper of any such toll-gate or bar, and every person aiding and assisting such keeper of any toll-gate or bar, offending in any of the cases aforesaid, shall for every such offence forfeit and pay the sum of 20*l*."

4 Geo. 4, c. 68.

IV. ~~Penalty~~ for ~~Forging~~, &c. Tickets.

By the 4 Geo. IV. c. 62, s. 41, "if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or wilfully aid or assist in the false making, forging, or counterfeiting, any ticket or certificate by this act authorized or directed to be used, with an intent to defraud his majesty, his heirs and successors, or any person or persons, of any of the said duties, or shall utter or publish as true any false, forged, or counterfeited ticket or certificate, with an intent to defraud his majesty, his heirs and successors, or any person or persons, of any of the said duties, every person so offending in any or either of the cases aforesaid, shall forfeit and pay the sum of 50*l*."

Forging, &c. tickets, penalty for, 50*l*.

V. Duties and Penalties, how to be Recovered and Applied.

By the 4 Geo. IV. c. 62, s. 42, in all actions, bills, complaints, informations, and proceedings, in the name of his majesty, or in the name of any other person or persons, for the recovery of any of the duties, debts, or penalties, granted or imposed, due or payable, by or under this act, it shall be lawful for his majesty, or any other person or persons suing or prosecuting for the same, to have and recover such duties, debts, and penalties, with full costs of suit, and all other reasonable charges and expenses attending the same.

Duties and penalties to be recovered, with costs.

Sect. 43. Any pecuniary penalty, which shall amount to the sum of 10*l*. or more, shall or may be sued for in any court at Westminster, and in his majesty's Court of Exchequer in Scotland, by action of debt, bill, complaint, or information, &c.

Where pecuniary penalties amounting to 10*l*. may be sued for.

Sect. 47. All pecuniary penalties imposed by this act, which shall be sued for, for in respect of which any information shall be exhibited within six calendar months, shall be distributed and paid in manner following; that is to say, one moiety thereof to his majesty, and the other moiety thereof, with full costs of suit, to the person or persons who shall inform and sue for the same; and it shall be lawful for any person to exhibit any information or complaint before any justice or other magistrate or magistrates within the time aforesaid, against any person, for the recovery of any fine, penalty, or forfeiture, incurred by virtue of this act, which shall not amount to 50*l*.; and all such penalties as shall not be sued for, or respecting which no information shall have been exhibited within the time aforesaid, shall belong and be paid to his majesty; and the moiety of every such penalty payable to his majesty shall be paid into the hands of his majesty's solicitor of stamps.

Application of penalties.

See sect. 59, 60, and 62, *post*, 177.

VI. Power of Justices,—Conviction, &c.

By the 4 Geo. IV. c. 62, s. 44, it is enacted, "that it shall and may be lawful for any justice of the peace, residing near the place where the offence shall be committed, to hear and determine any offence against this act which may subject any offender or offenders to any pecuniary penalty not amounting to 50*l*.,

Power of Justices.

4 Geo. 4., c. 62.

Distress.

Imprisonment.

Appeal.

Costs.

Appeal to subsequent sessions.

No certiorari, &c.

Witnesses not attending, penalty for, &c.

Conviction.

which said justice of the peace is hereby authorized and required, upon any information exhibited or complaint made to him in that behalf, to summon the party accused, and also the witnesses on either side, and to examine into the matter of fact, and upon due proof made thereof, either by the voluntary confession of the party accused, or by the oath of one or more witness or witnesses, to give judgment or sentence of dismissal, or for the penalty or forfeiture, as is hereby directed; and to award and issue out his warrant, under his hand and seal, for the levying any pecuniary penalty or forfeiture, penalties or forfeitures, so adjudged, together with the costs and charges by this act directed to be allowed, on the goods of the offender or offenders, and to cause sale to be made thereof, in case they shall not be redeemed within six days, rendering to the party the overplus (if any); and where goods of such offender or offenders cannot be found sufficient to answer the penalty or penalties, costs, and charges, as aforesaid, to commit such offender or offenders to prison, there to remain for the space of six calendar months, unless such pecuniary penalty or penalties, costs, and charges, shall be sooner paid and satisfied; and if any person or persons shall find himself, herself, or themselves aggrieved by the judgment or sentence of dismissal of any such justice, then he, she, or they, shall and may (upon giving security to the amount of the penalty or penalties sought to be recovered, together with such costs and charges as shall be awarded by such justice, in case judgment or sentence of dismissal shall be affirmed), appeal to the justices of the peace at the next general quarter sessions for the county, riding, or place, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment or sentence of dismissal of such justice shall be affirmed, it shall be lawful for such justices to award the person or persons so appealing to pay such costs occasioned by such appeal as to such justices shall seem meet: provided always, that if the next general quarter sessions of the peace shall fall within six days after such judgment or sentence of dismissal, it shall and may be lawful for the person or persons so finding himself, herself, or themselves aggrieved, as aforesaid, if he, she, or they shall think fit, giving such security as aforesaid, to appeal to the next subsequent quarter sessions, and that no such proceedings, so to be had or taken, shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process, into any of his majesty's courts of record at Westminster or elsewhere, in England or Wales, nor shall any such proceeding before such justice be taken or removed by a *certiorari*, suspension, advocacy, or reduction, or by any other writ, process, or proceeding."

Sect. 45. "If any person shall be summoned as a witness to give evidence before any justice or justices of the peace, touching any of the matters relating to this act, either on the part of the prosecution, or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his or her neglect or refusal, to be allowed by such justice or justices of the peace, or appearing shall refuse to be examined on oath, and give evidence before such justice or justices of the peace before whom the prosecution shall be depending, every person so summoned, and so neglecting or refusing as aforesaid, shall forfeit, for every such neglect or refusal, the sum of 5*l*."

Sect. 46. "A conviction, or a judgment, or a sentence of dismissal, in the form and to the effect following, (*mutatis mutandis*) as the case shall happen to be, shall be good and effectual, to all intents and purposes whatsoever, without stating the case, or the facts or evidence, in any particular manner; that is to say:

"Be it remembered, that on the _____ day of _____, in the year of our Lord _____, at _____, in the _____ of _____, A. B. came before me, C. D., one of his majesty's justices of the peace for the said _____, residing near the place where the offence was committed, and informed me that E. F., of _____, on the _____ day of _____, at _____, in the said _____, did [here set forth the fact for which the information is laid]; whereupon the said E. F., after being duly summoned to answer the said charge, appeared before me, on the _____ day of _____, at _____, in the said _____, and having heard the charge contained in

the said information, declared he was guilty of the said offence; [or, as the case may happen to be, did not appear before me, pursuant to the said summons, or, did neglect or refuse to make any defence against the said charge]; but the same being fully proved upon the oath of G. H., a credible witness, [or as the case may happen to be], acknowledged and voluntarily confessed the same to be true; and it manifestly appearing to me that he, the said E. F., is guilty of the offence charged upon him in the said information, I do hereby convict him of the offence aforesaid, and do declare and adjudge that he, the said E. F., hath forfeited the sum of _____ of lawful money of Great Britain, for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided; [or, after stating the summons and non-appearance of the said defendant, or the appearance of the said defendant, and that he was not guilty of the said offence, as the case may be], and it manifestly appearing to me that the said E. F. is not guilty of the said offence charged upon him by the said information, I do therefore dismiss the said complaint or information. Given under my hand and seal, the _____ day of _____."

4 Geo. 4, c. 62.

"Provided, nevertheless, that it shall and may be lawful for the said justice, where he shall see cause, to mitigate and lessen any such penalty or penalties, as he shall think fit or reasonable (costs and charges of the officers and informers, as well in making the discovery as in prosecuting the same, being always allowed over and above such mitigation), and so as such mitigation do not reduce such penalties to less than one-fourth part of the penalty or penalties incurred over and above the said costs and charges."

Mitigation of penalties.

VII. Letting the said Duties to Farm.

By the 4 Geo. IV. c. 62, s. 48, it is enacted that, from and after the passing of this act, it shall be lawful for the lord high treasurer or commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three or more of them, from time to time, as it shall be necessary, either by himself or themselves, or by the commissioners of stamps, to let to farm the said duties hereby granted, to such person or persons as shall be willing to farm the same, in separate divisions or districts, according to the regulations herein-after mentioned: provided always, that it shall not be lawful to let to farm the said duties, or any part thereof, at any one time, for a longer period or term than three years from the day on which any such letting to farm shall commence and take effect.

Duties may be let to farm.

Sect. 49. One month's notice at least shall be given by the said lord high treasurer or commissioners of the treasury, or commissioners of stamps, in The London Gazette, of the time and place of letting the said duties, specifying the divisions or districts within which it is intended to let, and also the office at which proposals shall be delivered.

Time of.

Sect. 50. No such proposals shall be proceeded upon, unless the same be signed by and in the proper names of the parties proposing to become bidders, and specifying the place of their abode, and delivered at least three days previous to the day mentioned in The London Gazette.

Notice of letting to be inserted in Gazette.

Proposals to be delivered three days previous to letting.

Sect. 51. The biddings shall be conducted under such regulations as shall be established by the said lord high treasurer, or commissioners of the treasury, or by the said commissioners of stamps, or the major part of them; and the person or persons who shall be the highest bidder or bidders shall be the farmer or renters, farmers or renters of the said duties, or such part thereof as shall be then put up to farm, for such term, not exceeding three years, as aforesaid, as may be determined on, and as shall be inserted in The London Gazette; and shall forthwith execute a contract, and give security by bond to his majesty, with three or more securities, for payment to his majesty of the money or yearly rent so contracted for, to be paid into the hands of the receiver-general of his majesty's stamp duties, at the head office of stamps, in equal portions, by eight several payments in the year, on the days to be fixed before any such letting to farm.

Mode of proceeding in putting up duties.

Securities.

Sect. 52. It shall be lawful for the said commissioners of the treasury, or the said commissioners of stamps, to appoint the time for making a deposit, and the amount thereof, on account of the rent to be paid by the person or persons who shall be the best bidder or bidders; and in case any such person or

Deposit to be made by persons farming duties.

4 Geo. 4, c. 62.

Forfeiture of.

Duties not let at the time fixed, may be put up again.

Duties not to be farmed by persons licensed to let horses.

Duties to belong to district where tickets are issued.

Farmers may vote for members.

Commissioners to depute farmers and collectors. (a)

Farmers may vary mode of keeping account, and indorse tickets.

persons shall fail to make such deposit at the time appointed, or shall fail to execute a proper contract in writing, and to give security for the payment of the rent and the due performance of such contract within the time to be appointed, then it shall be lawful for the said commissioners of the treasury, or the said commissioners of stamps, to declare the bidding and contract null and void, and his or their deposit, if made, to be forfeited, and to cause the duties to be again put up to be let to farm, pursuant to this act; and so from time to time, as often as such failure shall be made.

Sect. 53. In case any of the said duties to arise in any district shall not be let to farm at the time mentioned in such advertisement, it shall be lawful for the said lord high treasurer, or the commissioners of his majesty's treasury, or the commissioners of stamps, to appoint such future day or days as they shall judge proper, for letting the said duties, as herein-before directed, or to receive proposals for farming such duties, and to let the same to farm by private contract for any period of time not exceeding three years, as aforesaid: provided always, that no contract for letting the duties to farm shall be made with any person or persons licensed to let horses for hire, nor to any one for his or their use, or on his or their behalf, or so as that he or they shall have any interest therein, or benefit therefrom, but the same (if so made) shall be utterly null and void; and if any such contract shall be assigned to any such person or persons, or to any other person or persons for his or their use, so that he or they shall have any interest therein or benefit therefrom, such assignment shall be also utterly null and void.

Sect. 54. "To prevent disputes concerning the said duties hereby granted, in cases where the same may be collected in one district, division, or collection, and the tickets may be delivered in another district, division, or collection," it is enacted "that the said duties shall belong, and the tickets issued thereupon shall be delivered and accounted for, to the person or persons respectively who shall be the farmer or farmers of the several duties arising within the district, division, or collection within which the inn, house, or other place at which the person or persons letting any horse or horses for hire shall be licensed, as aforesaid, is situated, and the keeper of every toll-gate or bar, at whose gate or bar such ticket shall be delivered, shall deliver the same to the farmer or farmers of the said duties arising within such district, division, or collection, as aforesaid, at the time and in the manner such tickets are by this act directed to be delivered to the several collectors."

Sect. 55. No person farming the said duties, or any part thereof, or appointed a collector thereof, shall, in pursuance of such appointment, be disqualified from voting at any election of members to serve in Parliament.

Sect. 56. It shall be lawful for the commissioners of stamps from time to time, as occasion shall require, to depute and appoint, not only the persons who shall become farmers or lessees of the said duties, and their executors, administrators, and assigns, but also any other person or persons, at the request and upon the nomination and for the use of such farmers or lessees, or their executors, administrators, or assigns, to be collectors of the said duties within the respective districts, with full powers to grant the necessary licenses to persons within the districts, for letting out horses for hire, and to take securities by bond from the person or persons to be licensed, in the name of his majesty, with such conditions as are required by this act, and to receive the stamp-office weekly accounts relating to the said duties, and the money due thereon, and to administer the oath or affirmation before required to be made as to the truth of the accounts, and generally to execute and do all other things touching the collecting, managing, and enforcing the payment of the said duties within and for their respective districts, &c.

Sect. 57. It shall be lawful for the person or persons so farming the said duties, with the consent of the commissioners of stamps, to vary the mode of

(a) In *Smith v. Moss*, 3 M. & S. 15, it was considered that, under a deputation from the commissioners of stamps, authorizing H. and S., collectors of the

post-horse duties, to grant licenses to persons to let post-horses, a license by H., for S. and self, was good enough.

keeping the weekly account, in such manner as they shall judge most convenient for keeping the said accounts; and such person or persons so farming the said duties, shall also be at liberty, by an indorsement, or on the face of the tickets or certificates to be delivered by them to the licensed persons, to add the name or number of the district, &c.

4 Geo. 4, c. 62.

Sect. 58. All securities, bonds, or obligations taken by the person or persons farming the said duties, from such postmasters, innkeepers, or other licensed persons under this act, shall be taken in the name of his majesty, his heirs, and successors, and shall be sued and prosecuted in the name of his majesty, with the consent of his majesty's attorney-general in England, or lord advocate in Scotland.

Bonds from innkeepers to be taken in the name of his majesty.

Sect. 59. From and after the said 31st day of January, 1824, no person or persons shall commence any action or suit in any court of record for the recovery of any penalty under this act, until the expiration of fourteen days (*d*) after such person shall have delivered, or caused to be delivered, to the person or persons incurring such penalty, or left for him or them, at his or their dwelling-house, or usual or last place of abode, a printed or written notice of the intention of such person to apply to the commissioners of stamps in Great Britain, for leave to commence such action, and which notice shall state the offence, the day of committing the same, and the amount of each penalty intended to be recovered; and it shall not be lawful for such person, at the trial, to give in evidence any matter not specified and set forth in such notice.

No action shall be commenced until after fourteen days' notice shall be given to the person incurring the penalty. (*d*)

Sect. 60. Provided always, that it shall not be lawful for any farmer of any of the said duties, or for any other person, to sue or prosecute for any such pecuniary penalty in any court of record, without having first obtained the consent in writing of the commissioners of stamps, or two of them, nor unless the suit or prosecution shall be carried on by the solicitor of stamps, or some other solicitor or attorney to be approved of by the said commissioners or any two of them; and it shall be lawful for the said commissioners, or any two of them, to order the proceedings to be stayed on payment of part only of any penalty incurred, with or without costs, or on payment only of the costs incurred in such prosecution, or any part thereof, as they shall judge proper and expedient.

Consent of commissioners to sue for penalty.

Sect. 61. All the powers, provisions, articles, clauses, penalties, forfeitures, and all other directions, matters, and things prescribed by this act, with relation to the said duties, or to the persons appointed to collect the same, shall be put in force and carried into execution by the person or persons farming the said duties, in like manner as any collector is empowered to execute the same; and the person or persons farming the said duties shall be entitled to the same privileges, and have the like remedies for collecting and recovering the duties, as if the duties were sued for by or on behalf of his majesty, and such duties had not been let to farm.

Powers of this act to be in the persons farming the duties.

Sect. 62. If any person shall at any time be sued, molested, or prosecuted for any thing by him done in pursuance of this act, such person may plead the general issue, and give the special matter in evidence; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuited, such defendant shall have treble costs awarded against such plaintiff.

Persons farming the duties to have the same remedies for duties as his majesty.

Sect. 63. If any person or persons employed in the execution of this act, in relation to the said duties, shall wilfully refuse or neglect to do or perform any matter or thing by this act required or directed to be done or performed by such person or persons, whereby any of his majesty's subjects shall or may sustain any damage whatsoever, such person or persons so offending shall be liable, in any action to be founded on this statute, to answer to the party aggrieved all such damages, with full costs of suit.

Actions for any thing done in pursuance of this act.

Penalty on officers neglecting duty.

Sect. 64. From and after the said 31st day of January, 1824, it shall not be

What proofs shall be sufficient to show that persons are farmers or collectors. (*b*)

(a) See *R. v. Bennell*, 6 T. R. 75; *Serjeant v. Tilbury*, 16 East, 416.

(b) In *Radford v. McIntosh*, 3 T. R. 632, it was held, in an action brought for penalties on the Post-Horse Act by the farmer of the tax, that it was not necessary for the plaintiff to give in evi-

dence his appointment by the lords of the treasury or the commissioners of the stamp duties authorized by them; and that proof that the defendant had accounted with him as farmer of the duties, was held sufficient.

See Stat. 28 of 3 Geo. 4 c. 120

4 Geo. 4, c. 62.

necessary, upon the trial or hearing of any information, action, suit, or other proceeding to be commenced for the recovery of any of the said duties which shall be let to farm, or for the recovery of any penalty, to produce the instrument whereby the commissioners of stamps in Great Britain shall be authorized by the commissioners of his majesty's treasury to let to farm the duties granted by this act; or to produce the commission whereby the commissioners of stamps shall be constituted and appointed such commissioners; or to prove that the persons executing any contract or agreement, or any commission, deputation, authority, or other instrument, are or act as commissioners of stamps; or to prove the execution of any contract or agreement whereby any of the said duties shall be let to farm; or to prove the execution of any assignment of any such contract or agreement, or to prove the execution of any commission, deputation, or authority whereby any person shall be appointed a collector of any of the said duties, by the commissioners of stamps; or to prove the signatures of the commissioners of stamps to any consent to prosecute for such penalty: provided always, that such contract, agreement, assignment, commission, deputation, or authority and consent to prosecute, shall be produced on the trial or hearing of any such information, &c.; and it shall be made to appear that the person claiming or acting under such contract, agreement, assignment, commission, deputation, or authority, had in fact acted as the farmer or collector of the duties; and that in every such case such proof shall be deemed by the judges or justices to be good and legal evidence of such person being the farmer or collector described in such contract, &c., unless by other evidence the contrary shall be made to appear.

The duties to be paid to the receiver-general, and by him into the exchequer.

Sec. 65. All the monies to arise from the duties granted by this act shall be paid into the hands of the receiver-general of the stamp-duties in Great Britain, who shall pay the same into the Bank of England, for safe custody, and shall thereafter pay the same (after deducting the charges of collecting, &c.) into the receipt of his majesty's exchequer at Westminster, in one sum, at such times and in such manner as the present stamp duties are by the laws in force directed to be paid; and the monies so paid into the said receipt shall be carried to the consolidated fund of the United Kingdom of Great Britain and Ireland.

Forms.

(No. 1.)

The 4 Geo. IV. c. 62, s. 46, *ante*, 174, prescribes the formal part of the conviction.

Information, &c. for not delivering up to collector a returned check-ticket, on 4 Geo. 4, c. 62, s. 29.

State the offence, thus:] *That C. D., of, &c., on, &c., at, &c., being then and there a person licensed to let horses for hire, according to the statute in that behalf made and passed in the fourth year of the reign of his late majesty King George the Fourth, did let for hire unto one E. F., a certain gelding, for the space of twenty-eight days and more, to wit, for three months; which said gelding was afterwards given up and returned by the said E. F. to the said C. D., before the expiration of the time for which it was so hired as aforesaid, to wit, on, &c., at, &c.; and the said C. D. then and there received from the said E. F. the check ticket which the said E. F. had before then received, in exchange for the original ticket delivered to him at the time of the hiring of such gelding as aforesaid: And that the said C. D., having so received the said check ticket as aforesaid, from the said E. F., did not nor would, within three days after the return of the said gelding, deliver up or transmit the said check ticket to one G. H. during all the time aforesaid, being the collector of the duties to be paid and collected under the said statute, and to whom the said C. D. was then and there bound to deliver his Stamp Office weekly account, but then and there wholly neglected so to do, contrary to the form of the statute in such case made and provided, the said offence having been committed within the space of six calendar months now last past.*

Information and conviction against persons hiring horses, falsely alleging them to be their own, on 4 Geo. 4, c. 62, s. 22. (c)

(No. 2.)

State the offence, thus:] *"That C. D., of, &c., within the space of six calendar months now last past, [or "next before information given in this behalf,] to wit, on,*

(c) See other forms, *Archb. Forms of Com. & Conv. Index, Post-Office.*

he, at, &c., did pass and go through a certain toll-gate situate at, &c., called _____, 4 Geo. 4, c. 62.
with a certain gelding which the said C. D. was then and there using and hiring, and did then and there neglect and refuse to deliver, produce, or show at the said toll-gate to one E. F., the keeper of the said toll-gate, the ticket, exchange ticket, certificate, or check ticket, which he the said C. D. ought to deliver, produce, or show at such toll-gate, according to the statute made in the fourth year of the reign of his late Majesty King George the Fourth, intituled, 'An Act to repeal the Duties upon Horses let to hire, for the purpose of travelling in Great Britain, and to grant other Duties in lieu thereof, and to provide for Letting the same to Farm'; And that the said C. D. did then and there falsely allege the said gelding, with which he so passed the said toll-gate as aforesaid, to be his own gelding, and not a hired gelding, in order to avoid being stopped, [or "to avoid the payment of the sum which the said keeper of the said toll-gate was entitled to demand"], in default of such ticket, exchange ticket, certificate, or check ticket being delivered or shown as aforesaid; contrary to the form of the statute in such case made and provided."

(No. 3.)

State the offence, thus:] "That C. D., of, &c., within the space of six calendar months now last past, [or "next before information given in this behalf,] to wit, on, &c., at, &c., did falsely and fraudulently utter and publish as true a certain false, forged, and counterfeited ticket [or certificate], as and for a true ticket authorized and directed by the statute made in the fourth year of the reign of his late Majesty King George the Fourth, intituled 'An Act to repeal the Duties upon Horses let to Hire, for the purpose of Travelling in Great Britain, and to grant other Duties in lieu thereof, and to provide for Letting the same to Farm'; and which said false, forged, and counterfeited ticket was and is as follows, that is to say: " [set out the ticket, verbatim, as in the original;] "with intent to defraud his present Majesty, King William the Fourth [or the person to whom the duties have been let to farm], of the duty in that behalf; contrary to the form of the statute in such case made and provided."

Information, conviction, &c. for forging tickets, &c. on 4 Geo. 4, c. 62, s. 41.

Post-Office.

I. Post-Office, p. 179.

[9 Anne, c. 10; 6 Geo. I. c. 21; 4 Geo. II. c. 33; 26 Geo. II. c. 13; 5 Geo. III. c. 25; 7 Geo. III. c. 50; 24 Geo. III. sess. 2, c. 37; 34 Geo. III. c. 17; 35 Geo. III. c. 53; 37 Geo. III. c. 67; 39 Geo. III. c. 76; 41 Geo. III. (U. K.) c. 7; 42 Geo. III. c. 81; 45 Geo. III. c. 11; 46 Geo. III. c. 73, c. 92; 48 Geo. III. c. 116; 52 Geo. III. c. 88, c. 143; 44 Geo. III. c. 169; 56 Geo. III. c. 153; 59 Geo. III. c. 39, c. 111; 3 Geo. IV. c. 105; 4 Geo. IV. c. 81; 5 Geo. IV. c. 20; 7 & 8 Geo. IV. c. 6, c. 21.]

II. Exemption from Postage and Franking by Members of Parliament, &c., p. 213.

[4 Geo. III. c. 24; 24 Geo. III. sess. 2, c. 37; 35 Geo. III. c. 53; 42 Geo. III. c. 63; 43 Geo. III. c. 119; 44 Geo. III. c. 84; 46 Geo. III. c. 61, c. 142; 48 Geo. III. c. 90; 50 Geo. III. c. 66; 53 Geo. III. c. 13; 54 Geo. III. c. 169; 5 Geo. IV. c. 20.]

I. Post-Office:—and herein,

1. General Regulations.
2. Offences relative to the Post-Office by its Servants and others.
3. Postage of Inland and Irish Letters.
4. Postage of Foreign Letters.
5. Packet Postage.
6. Postage relating to Soldiers or Seamen.

(1.) General Regulations.

Oath of person
employed by
post-office.

By the 9 Anne, c. 10, s. 41, no person shall be capable of exercising any employment relating to the post-office, or any branch thereof, or be any way concerned in receiving, sorting, or delivering of letters, before he shall have taken the following oath, before a justice of the peace where he resides.

"I, A. B., do swear, that I will not wittingly, willingly, or knowingly open, detain, or delay, or cause, procure, permit, or suffer to be opened, detained, or delayed, any letter or letters, packet or packets, which shall come into my hands, power, or custody, by reason of my employment in or relating to the post-office; except by the consent of the person or persons to whom the same is or shall be directed, or by an express warrant in writing under the hand of one of the principal secretaries of state for that purpose; or except in such cases where the party or parties to whom such letter or letters, packet or packets, shall be directed, or who is or are chargeable with the payment of the port or ports thereof, shall refuse or neglect to pay the same, and except such letters or packets as shall be returned for want of true directions, or when the party or parties to whom the same is or shall be directed cannot be found: and that I will not in any way embezzle any such letter or letters, packet or packets, as aforesaid."

No letter to be
opened or de-
layed.

Exception.

And, by sect. 40, no person shall wittingly, willingly, or knowingly open, detain, or delay, or cause, procure, or suffer any letter or packet, after delivery into the post-office, or into the hands of any person employed for the receiving or carrying post letters, and before delivery to the persons to whom directed, or for their use; except by express warrant in writing under the hand of one of the principal secretaries of state; or except where the party to whom directed, or who is chargeable with the payment of the port, shall refuse to pay the same: and every person so offending, or who shall embezzle any such letter or packet, shall forfeit 20*l.*, to be recovered by action, &c., at Westminster, together with costs; and, besides such penalty, such offender shall be incapable of having, using, exercising, or enjoying any office, trust, or employment, in or relating to the post-office, or any branch thereof.

In the case of *Martin v. Ford*, 5 T. R. 101, it was determined that the penalty of 20*l.* inflicted by the 9 Anne, c. 10, s. 40, on persons who willingly or knowingly open, detain, or delay any letter after the same hath been delivered at the post-office, or into the hands of any person employed for the receiving or carrying post letters, extends only to persons in the employment of the post-office, and not to a person, nominated jointly by the inhabitants of a village near a post town, and the postmaster of that town to receive and deliver the letters to those inhabitants.

Postmasters are
not to charge for
delivering letters
within established
limits of post
town.

It is now settled, that if the persons to whom letters are addressed, reside within the established limits of the post town, the postmasters are obliged to deliver such letters at their places of abode, and at the rate of postage only as established by act of Parliament. *Stock v. Harris*, deputy postmaster at Gloucester, E. 11 Geo. III. 5 Burr. 2709; *Smith v. Plowditch*, M. 15 Geo. III. 1 Cowp. 182; and *vide per Aston*, J. 1 Cowp. 189. An action on the case for damages lies against a deputy postmaster for non-delivery of letters gratis in a country post town. *Rouning v. Goodchild*, 3 Wils. 443; 2 Blac. Rep. 906.

Letters to and
from places not
being post towns.

By the 41 Geo. III. (U. K.) c. 7, s. 5, the postmaster-general may undertake at the expense of the post-office the conveyance and delivery of letters directed to persons abiding in towns and places (not being post towns) from the respective post towns to which such letters shall be carried by the post in the usual manner, and also the collection of letters in and from such towns, villages, and places to be sent by the post, and may take such sums of money for such extra service as may be agreed upon between him and the inhabitants of such place.

Sect. 6. "Provided that nothing herein shall prevent the inhabitants of any such towns and places from carrying or re-carrying, or employing servants or other persons to carry, letters to or from the post town in like manner as they have been heretofore accustomed and are by law authorized to do."

And by the 46 Geo. III. c. 92, s. 2, the postmaster-general is authorized to do the same where the towns from whence the letters are to be conveyed are

not post towns; and sect. 3 contains the same proviso as sect. 5 of 41 Geo. III. 48 Geo. 3, c. 81.
c. 7.

By the 9 Anne c. 10, s. 17, no person shall receive, take up, order, despatch, convey, carry, recarry, or deliver any letter or packet of letters, or make any collection of letters, or set up or employ any conveyance whatsoever for such receiving, &c. &c., or by means whereof any letter or packet of letters shall be received, &c. &c., on pain of 5*l.* for every several offence, and also 100*l.* per week.

Conveying letters otherwise than by post.

Sect. 32 saves the privileges of the two Universities.

And by the 42 Geo. III. c. 81, s. 5, no person shall send or tender, or deliver to be sent otherwise than by the post, or by the authority of the postmaster-general, or his deputy or deputies, or to the nearest and most convenient post town, to be from thence forwarded by the post, any letter or packet of letters, on pain of 5*l.* for every offence, with full costs to the informer, in any court of record at Westminster; one moiety thereof to the king, the other moiety to the informer. See the 5 Geo. IV. c. 20, s. 7, *infra*.

Persons sending letters otherwise than by the post, to forfeit 5*l.*

Sect. 6. "Provided, that nothing herein shall extend to any letter concerning goods sent by any common carrier, and to be delivered with such goods without profit or advantage for receiving or delivering the same; nor any letter of merchants, owners of ships, or merchant vessels, nor any the cargo therein sent on board such vessels to be delivered by the masters thereof, or by any other employed by them for the carriage thereof without hire or reward for the same; nor any commission or return thereof; affidavits, writs, process, or proceedings, or return thereof, out of any court; nor any letter sent by any private friend in their way of journey, or by any messenger sent on purpose, concerning the private affairs of any person." See the 5 Geo. IV. c. 20, s. 8, p. 182.

Exceptions.

A letter sent in a parcel from one stamp distributor to another, containing amongst other things stamps, is to be presumed to relate to them so as to bring it within the exception respecting letters accompanying goods in the 42 Geo. III. c. 81, s. 6; at least, a carrier seeking to evade his liability to answer for the loss of it, under the pretence of its having been an illegal act, must give some *prima facie* evidence to the contrary to lay the foundation for his objection. *Bennett v. Clough*, 1 B. & A. 461.

By the 9 Anne, c. 10, s. 19, penalties under this act to be sued for in any court of record; one moiety to the king, the other to the informer with full costs.

Sect. 30. All sums not exceeding 5*l.* due from any person for letters delivered, shall be recovered before justices of the peace as small tithes are. Such debt to be preferable to any debt to a private person. See *post*, *Cities*.

Postage recoverable as small tithes.

By statute 5 Geo. IV. c. 20, s. 7, reciting, that notwithstanding the provisions in that behalf made by the 9 Anne, c. 10, and 42 Geo. III. c. 81, "the practice of sending and conveying by stage coaches, carts, waggons, ships, vessels, boats, barges, and other conveyances, letters and packets which, by virtue of the laws relating to the post-office, ought to be sent by the post, prevails to a considerable extent, to the great prejudice and diminution of his majesty's revenue;" it is enacted, "That from and after the passing of this act, [12th April, 1824,] no person or persons whatsoever, or body politic or corporate, in any part of the United Kingdom of Great Britain or Ireland, or other his majesty's dominions, where any post is or shall be established under the management of his majesty's postmaster-general, shall receive, take up, order, despatch, convey, carry, re-carry, or deliver, or shall send, or cause to be sent or conveyed, or tender or deliver in order to be sent or conveyed, otherwise than by the post, or by and with the authority and consent of his majesty's postmaster-general for the time being, or the deputy or deputies of such postmaster-general, or to the nearest or most convenient post town, to be from thence forwarded by the post, any letter or letters, on pain of forfeiting for each and every letter or letters, whether such letter shall be received, taken up, ordered, despatched, conveyed, carried, re-carried, or delivered, or sent, or caused to be sent or conveyed, or tendered, or delivered, in order to be sent or conveyed, separately or by itself, or together with any other letter or letters, or other matter or thing whatsoever, the sum of 5*l.*, one moiety whereof to the use of his majesty, his

5 Geo. 4, c. 20.

Letters not to be conveyed in any other way than by the post, on penalty of 5*l.* for each letter.

5 Geo. 4, c. 20.

heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same, to be sued for and recovered, with full costs of suit, by any person who shall and will inform and sue for the same, in any of his majesty's courts of record at Westminster, for offences committed within that part of the United Kingdom of Great Britain and Ireland called England, and in any of his majesty's courts of record in Dublin for offences committed in Ireland, and before the sheriff or steward court of the shire or stewartry within which the party offending shall reside, or the offence shall be committed, for offences committed in Scotland."

Act not to extend to letters to be delivered with goods sent by common carriers or by vessels; nor to proceedings issuing out of courts; nor to letters sent by private friends, or by messengers on private affairs. (h)

Sect. 8 provides, "That this act shall not extend to subject any person or body corporate to any such penalty or forfeiture as aforesaid, for receiving, taking up, ordering, despatching, conveying, carrying, re-carrying, or delivering or sending, or causing to be sent or conveyed, or for tendering or delivering, or sending or causing to be sent or conveyed, or for tendering or delivering in order to be sent or conveyed, any letter or letters which shall respectively concern goods sent by any common known carrier of goods, and shall be sent with and for the purpose of being delivered with the goods that such letter or letters do concern, without hire or reward, profit or advantage, for the receiving or delivering the same; nor any letter or letters of merchants, owners of any ships, barques, or vessels of merchandize, or any the cargo or lading therein, sent on board the same ships, barques, or vessels of merchandize, to be delivered by the masters of the same ships, barques, or vessels of merchandize, or by any other person employed by them for the carriage of such letters, according to their respective directions, without paying or receiving any hire or reward, advantage or profit for the same in anywise; nor any commission or return thereof, affidavits, writs, process, or proceedings, or return thereof, issuing out of any court; nor any letter sent by any private friend in his or her way of journey or travel, so as such letter shall be delivered by such friend to the party to whom such letter shall be directed; nor any letter or letters to be sent by any messenger on purpose for or concerning the private affairs of any person."

Limitation of actions.

By sect. 9, "if any action or suit shall be commenced against any person or persons for anything done in pursuance of this act, the same shall be commenced within twelve months after the fact committed, and not afterwards; and the defendant or defendants in such action shall and may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act; and if it shall appear so to be done, or that such action or suit shall be commenced after the time before limited for bringing the same, that then the jury shall find for the defendant or defendants; and upon a verdict for the defendant, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for the same as any defendant or defendants hath or have in any other cases by law."

General issue.

Treble costs.

Postmaster not to meddle in elections.

By the 9 Anne, c. 10, s. 44, no postmaster shall, by word, message, or writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving his vote for the choice of any person to serve in Parliament, on pain of 100*l.*; half to the informer, and half to the poor; and likewise of being incapacitated.

59 Geo. 3, c. 30.

By the 59 Geo. III. c. 39, s. 1, the receivers-general of the revenues of customs, excise, stamps, and postage in England, shall pay into the receipt of the exchequer, on such days in every week as the commissioners of the treasury shall direct, all monies arising in Great Britain, by the customs, excise, stamps, and postage, received by the said receivers-general, and afterwards paid by them into the Bank of England.

Liability of postmaster for loss.

Case does not lie against the postmaster-general for a bank note stolen by one of the sorters out of a letter delivered into the post-office. *Whitfield v. Lord De Spencer*, *Comp.* 754; *post*, 189.

(h) See the case in 1 *B. & Ald.* 461; *ante*, p. 181.

(2). Offences relative to the Post-Office by Servants and others.

By the 5 Geo. III. c. 25, s. 20, if any postboy shall quit the mail before his arrival at the next stage; or shall suffer any other person (except the person employed to guard the mail) to ride on the horse or carriage; or shall loiter on the road so as to retard the arrival of the mail; or shall not in all possible cases convey the mail after the rate of six miles an hour at the least: he shall, on conviction by confession, or oath of one witness before one justice, be sent to the house of correction, to be there kept to hard labour, not exceeding one month, nor less than fourteen days.

Postboy loitering upon the road.

And, by sect. 21, if any postboy shall by himself or in combination with others unlawfully collect any letters, or convey or cause them to be unlawfully conveyed, he shall, on conviction by confession on oath of one witness before one justice, forfeit for every letter or packet so collected, conveyed or delivered, 10s. to the informer: if not forthwith paid on conviction, to be committed to the house of correction to hard labour, not exceeding two months nor less than one.

Unlawfully collecting letters.

Sect. 19. If any person appointed, authorized, and intrusted to take in letters or packets and receive the postage thereof, shall embezzle or apply to his own use any money received by him with such letters, &c. for the postage thereof; or shall burn or otherwise destroy any letter or packet by him so taken in or received; or who, by virtue of his office, shall advance the rates upon letters or packets sent by the post, and not duly account for the money received by him for such advanced postage; he shall be deemed guilty of felony.

Embezzling money for letters post paid, or destroying the letters.

And by the 7 Geo. III. c. 50, s. 3, if any person employed in any business of the post-office, who shall take any letter or packet to be forwarded by the post, and receive any money therewith for the postage, shall burn or destroy any such letter or packet; or shall advance the rate of postage upon any letter or packet sent by the post, and not duly account for the money by him received for such advanced postage; he shall be deemed guilty of felony.

7 Geo. III. c. 50.

By s. 1 (which re-enacts more at large the provisions of the 5 Geo. III. c. 25, s. 17,) it is enacted, "That if any deputy, clerk, agent, letter-carrier, post-boy, or rider, or any other officer or person whatsoever, employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the post-office, shall secrete, embezzle, or destroy any letter, packet, bag, or mail of letters which such person might be entrusted with, or which shall have come to his hand or possession, containing any bank note, bank post bill, bill of exchange, exchequer bill, South Sea, or East India bond, dividend, warrant of the Bank, South Sea, East India, or any other company, society, or corporation, navy or victualling or transport bill, ordnance debenture, seaman's ticket, state-lottery ticket or certificate, bank receipt for payment on any loan, note of assignment of stock in the funds, letter of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, American provincial bill of credit, goldsmith's or banker's letter of credit, or note for or relating to the payment of money; or other bond or warrant, draught, bill, or promissory note whatsoever for the payment of money; or shall steal or take the same out of any letter or packet that shall come to his hands or possession, such offender shall be guilty of felony without benefit of clergy." (a)

Secreting, embezzling, or destroying letters containing certain securities or instruments by one employed by the post-office, felony.

Stealing, or taking the same out of any letter or packet, felony.

Shaw was indicted on the 7 Geo. III. There were four counts in the indictment: 1st. That, being a clerk employed in sorting and charging letters in the post-office, the prisoner feloniously secreted, embezzled, and destroyed a letter containing a bank note for 20*l*. 2dly. That, being a person employed in the business relating to the general post-office, he secreted, &c. 3dly. That, being a clerk employed in sorting and charging letters in the post-office, he

Employed in sorting, &c.

7 Geo. 2, c. 30.
Shaw's case.

feloniously stole and took out of a letter a bank note for 20*l.* 4*thly.* That, being a person employed in the business relating to the general post-office, he feloniously stole, &c. It appeared in evidence that the prisoner was only a sorter, and not a charger of letters; whereupon the recorder, who tried him, directed the jury (the proof of the fact being very plain) to convict him, which they did, on the second and fourth counts only. It was then moved in arrest of judgment that, as he had been acquitted on the counts which charged him as a sorter and charger, and did not appear to be a person employed by the post-office in any other business but that of sorting, which is one of the employments particularly specified in the 7 Geo. III., which says, that "if any person employed in receiving, sorting, charging, &c. or in any other business relating to the post-office, shall, &c." he could not be convicted on the third and fourth counts. This, being adjourned to Serjeants' Inn, was argued before eleven of the judges (*abs. Blackstone, J.*) who unanimously agreed that judgment should be arrested, but inclined to think, that the jury might have convicted the prisoner on the first and third counts, by a special finding that he was a sorter only. *Shaw's case, O. B. May, 1771; Blac. Rep. 789; 2 East's P. C. 580.*

Containing any
bank note, &c.

Benjamin Willoughby was indicted on the 7 Geo. III. c. 50, for that he, being a clerk employed in the post-office at Birmingham, in stamping and charging letters, stole and took out of a letter there, a certain warrant for the payment of money, (setting it forth, by which it appeared to be a Birmingham post-bill, or bill of exchange payable in London.) The fact of stealing having been proved, it was objected that this was not "a warrant for the payment of money" within the meaning of the act, but a post-bill, or bill of exchange. The prisoner was found guilty, but judgment was respited to take the opinion of the judges. Though at first there was a difference of opinion among the judges, at length they all agreed that it was properly stated in the indictment; for, though it was a bill of exchange, it was also a warrant for the payment of money; it was a voucher to the bankers or drawers, if genuine, for the payment, and it might also have been laid to be a draught. And they said it could not be distinguished from the case of *R. v. Shepherd, Mich. 1781*, where in forgery the indictment was in the same form, and holden good. *Willoughby's case, Warwick Lent Ass. 1783; 2 East's P. C. 581.*

Money in a letter.

Stealing money out of letters is not within these acts. Timothy Skutt, who was a sorter of letters, &c., stole two letters, each containing 5*s.* 3*d.* in gold coin; and, being indicted on these statutes, and the fact being proved, it was objected that, as the letters contained money, and not any security relating to the payment of money mentioned in the acts, the case did not fall within them; and the court being of that opinion, he was acquitted on that indictment, but was again indicted and convicted of grand larceny for stealing the money, and was transported. *Skutt's case, O. B. 1774; 2 East's P. C. 581.*

Parts of a note.

In *Moore's case, 2 East's P. C. 581*, it was holden, upon a conference by all the judges (except *Buller, J.*, who was absent, and doubted), that a letter-carrier secreting half a bank note in one letter on one day, and the other half in another letter on another day, is a secreting within the 7 Geo. III. c. 50.

Since this decision, another act has passed (42 Geo. III. c. 81), which (sect. 1), after reciting the 7 Geo. III. c. 50, s. 1, and the expediency of extending its provisions so as to protect the conveyance by the post of *all and every part or parts of such securities or instruments*, enacts, "if any deputy, clerk, agent, &c. &c. (as in the 7 Geo. III. c. 50, s. 1, *ante*, p. 183), in the post-office shall secrete, embezzle, or destroy, any letter or packet, bag or mail of letters, with which he is entrusted, or which may come into his possession, containing any part or parts of any such security or instrument as in the said act are mentioned, or shall steal or take out of any letter or packet that shall come to his possession any part or parts of any such security or instrument, every such offender shall be guilty of felony without benefit of clergy." (a)

And, by sect. 2, "if any person whatsoever, whether employed in any business relating to the post-office or not, shall counsel, command, hire, persuade,

Persons procuring, &c. to commit offences, or fraudulently receiving such securities or parts thereof, guilty of felony,

(a) As to clergy, see *Clergy*, Vol. I.

procure, aid, or abet, any such deputy, &c., or other officer employed, &c., in the post-office to commit any offence in the said recited act, or in this act before mentioned; or shall, with a fraudulent intention, buy or receive the whole or any part of such security, &c., which he shall know to have been contained in any such letter, &c., so by any such deputy, &c., secreted or embezzled, or stolen or taken out of any letter, &c., that shall come to his possession, or which he, at the time of buying or receiving, shall know to have been contained in and stolen or unlawfully taken out of any letter, &c., stolen and taken by any person whatsoever from or out of any mail, bag, &c., or from or out of any post-office, or house or place for the receipt or delivery of letters, &c.; each and every person so offending shall be deemed guilty of felony without benefit of clergy, (a) and may be tried and convicted as well before as after the trial or conviction of the principal felon, and whether the principal felon shall have been apprehended, or shall be answerable to justice or not."

62 Geo. 2, c. 81.

and may be tried before or after the principal.

By the 7 Geo. III. c. 50, s. 2, "if any person or persons shall rob any mail or mails, in which letters are sent or conveyed by the post, of any letter or letters, packet or packets, bag or mail of letters, or shall steal and take from or out of any such mail or mails, or from or out of any bag or bags of letters sent or conveyed by the post, or from or out of any post-office, or house or place for the receipt or delivery of letters or packets sent or to be sent by the post, any letter or letters, packet or packets, although such robbery, stealing, or taking, shall not appear to be proved to be a taking from the person, or upon the king's highway, or to be a robbery committed in any dwelling-house, or any coach-office, stable, barn, or any outhouse belonging to a dwelling-house, and although it should not appear that any person or persons were put in fear by such robbery, stealing, or taking, yet such offender or offenders, being thereof convicted, as aforesaid, shall be deemed guilty of felony, without benefit of clergy." (a)

Robbing the mail, or stealing letters.

This section does not extend to the servants of the post-office; and, therefore, a conviction of one of them for stealing out of the post-office a letter sent to be delivered by the post, was holden to be wrong. The opinion of the judges in this case was founded on a comparison of the second section of the act with the first and third sections, which were expressly intended to guard against the misconduct of the servants of the post-office. *Pooley's case*, O. B. 1801; 1 *East's P. C. Add.* xvii.; *R. & R.* 12, S. C. But the report of such decision has been mentioned as incorrect. And it is clear that a person may be indicted and convicted under the third section of the 52 Geo. III. c. 143, *post*, p. 187, for stealing a letter, though such person has an employment in the post-office, especially if such letter did not come to him in the course of his employment. 2 *Russ. C. & M.* 239; *Brown's case*, *post*, p. 187.

A bill of exchange may be laid as a warrant for the payment of money, within the statute. *Willoughby's case*, 2 *E. P. C.* 581. Stealing money out of letters is not within the act. *Skutt's case*, 2 *E. P. C.* 582. And, where a person employed in the post-office secreted a letter, containing a draft not duly stamped, it was held not to be an offence within the act, the draft not being available. *R. v. Pooley*, *R. & R.* 12; 3 *B. & P.* 311, S. C. But secreting a letter, containing country bank notes paid in London, and not re-issued, is an offence within the statute; for they are available against the makers of them, into whomsoever's hands they come. *R. v. Ranson*, *R. & R.* 232.

An indictment upon this act for secreting two letters containing therein a bank note, was held good, upon proof that it was sent in halves on different days. *Moore's case*, 2 *E. P. C.* 582; and see *R. v. Ellins*, *R. & R. C. C.* 188.

The note or other security stolen in the letter may be described generally in the indictment. 2 *E. P. C.* 583.

Noah Pearce, intending to steal the mail-bags, went one night about the usual time to the post-office at High Wycombe, and pretending to be the mail-guard, obtained from the person at the office the bags of letters, which were let down to

(a) See now as to the benefit of clergy, *Clergy, Benefit of*, Vol. I.

Stealing letters. him from out of the window of the post-office by a string, from whence he took them, and immediately went away. Being indicted on this act, and found guilty, all the judges were of opinion, in Hilary Term following, that the conviction was proper, on a count in the indictment for stealing the letters out of the post-office. His artifice in obtaining the delivery of them in the bag out of the house was the same as if he had actually taken them out himself. *Noah Pearce's case, Buckingham Sum. Ass. 1794, 2 East's P. C. 603.* In this case the property did not pass; as the postmaster had no property in the mail-bags to part with. *Ante, 183, 184.*

A letter-carrier, taking letters out of the office, intending to deliver them to the owners, but to embezzle the postage, cannot be indicted for stealing such letters, under this act. James Howatt was indicted on the second section of this act: 1st, for stealing out of the London bags, sent by the general post-office from London to Manchester, divers letters specified; 2ndly, 3rdly, and 4thly, for stealing the like letters out of the post-office in Manchester, and out of a certain house for the receipt and delivery of letters sent by the post, and out of a certain place for the same. It appeared to be the duty of the clerks in the office to count the letters and deliver them out to the letter-carriers, of whom the prisoner was one. He contrived to obtain possession of some of the letters before they were so counted out to him, and was detected with them in his pocket in the letter-carrier's room, which is under the same roof as the office, separated from it only by some steps. For some time previous there had been a great deficiency in the receipt of the postage, though there was no complaint of the miscarriage of any letters; and from circumstances it appeared, and so the jury found when they convicted the prisoner, that he intended to have delivered the letters, and only to have embezzled the postage. But in the Michaelmas Term following, all the judges (*abs. Hotham, B.*) agreed that this was not a stealing within the act. *Howatt's case, Lancaster Sum. Ass. 1795, cor. Rooke, J., 2 East's P. C. 604; and see post, 187.*

Trial, where.

On an indictment for robbing the mail, the robbery must have formerly been proved to have been committed in the county laid in the indictment. *R. v. Thomas, 2 East's P. C. 605.* But now this difficulty is removed by the 7 Geo. IV. c. 64, s. 12; and see **Indictment**, Vol. III. p. 330.

52 Geo. 3. c. 143.
Offences of persons employed by the post-office, how to be punished.

By the 52 Geo. III. c. 143, s. 2, if any deputy, clerk, agent, letter-carrier, post-boy, or rider, or any other officer or person whatsoever employed by or under the post-office of Great Britain in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the said office, shall, after the passing of this act, secrete, embezzle, or destroy any letter or packet, or bag or mail of letters, with which he or she shall have been entrusted in consequence of such employment, or which shall in any other manner have come to his or her hands or possession, whilst so employed, containing the whole or any part or parts of any bank note, bank post bill, bill of exchange, exchequer bill, South Sea or East India bond, dividend warrant, either of the Bank, South Sea, East India, or any other company, society, or corporation, navy or victualling or transport bill, ordnance debenture, seaman's ticket, state-lottery ticket or certificate, bank receipt for payment on any loan, note of assignment of stock in the funds, letter of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, American provincial bill of credit, goldsmith's or banker's letter of credit, or note for or relating to the payment of money, or other bond or warrant, draught, bill, or promissory note whatsoever, for the payment of money; or shall steal and take out of any letter or packet with which he or she shall have been so entrusted, or which shall have so come to his or her hands or possession, the whole or any part or parts of any such bank note, bank post bill, bill of exchange, exchequer bill, South Sea or East India bond, dividend warrant, either of the Bank, South Sea, East India, or any other company, society, or corporation, navy or victualling or transport bill, ordnance debenture, seaman's ticket, state-lottery ticket or certificate, bank receipt for payment of any loan, note of assignment of stock in the funds, letter

of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, American provincial bill of credit, goldsmith's or banker's letter of credit or note for or relating to the payment of money, or other bond or warrant, draught, bill, or promissory note whatsoever, for the payment of money; every person so offending, being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy.

52 Geo. 3, c. 143.

By s. 3, if any person shall, after the passing of this act, steal and take from any carriage, or from the possession of any person employed to convey letters sent by the post of Great Britain, or from or out of any post-office, or house or place for the receipt or delivery of letters or packets, or bags or mails of letters sent or to be sent by such post, any letter or packet, or bag or mail of letters, sent or to be sent by such post, or shall steal and take any letter or packet out of any such bag or mail, every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy (a); and such offences shall and may be inquired of, tried, and determined, either in the county where the offence shall be committed, or where the party shall or may be apprehended.

Offences of other persons against the post office, how to be punished.

In *Broune's case*, the prisoner was employed in the post-office to deliver letters, but not to sort them; but he did sort them, when regularly he ought not to have done so, and whilst sorting, stole a letter. The indictment charged him, as a sorter, with secreting, and, as a common person (under sect. 3 of the 52 Geo. III.), with stealing: but as it appeared that he ought not to have been allowed to sort, he was acquitted of secreting; and it was then urged he could not have been convicted under the third section, because he was a person employed in the post-office, and the case of *R. v. Pooley*, ante, 185, was cited. A case being reserved, the judges stated, that the report of *R. v. Pooley* was to the point in question mistaken: that *R. v. Simpson*, cor. *Lord Ellenborough*, *Thompson*, B., and *Lawrence*, J., O. B. 1810, was in point the other way; that a man who stole was not less a person stealing, because he had some employment in the office; and that, upon a contrary construction, if a person in the office stole, but not in the course of his employment, he would be unpunishable. *R. v. Brown*, 2 Russ. C. & M. 238; and *R. & M.*, C. C. 32, n. a.

Previously to the last case it had been holden, that a letter-carrier taking letters out of the post-office, intending to deliver them to the owners, but to embesgle the postage, is not indictable for stealing such letters, under the second section of the 7 Geo. III. c. 50. *Hovatt's case*, ante, p. 186.

A stamper of the post-office, who purloins a letter for the purpose of delivering it as a missorted letter, with a view of obtaining the postage of it, cannot be capitally convicted of secreting a letter containing bills, under the 52 Geo. III. c. 143, s. 2, although the letter may, in fact, contain bills. *R. v. Sharpe*, cor. 12 Judges, 1825; *Car. C. L.* 147; *R. & M.*, C. C. R. 125, S. C. See also the case of *R. v. Ellins*, *R. & R.*, C. C. 188.

The horse mail-bags being left by the mail-rider, after he had taken possession of them, for a temporary purpose, for two minutes, were stolen during his absence: the case is within the 52 Geo. III. c. 143, s. 3. *R. v. Robinson*, 2 Stark. N. P. 485; and see ante, 185.

And, by the 52 Geo. III. c. 143, s. 4, if any person shall, after the passing of this act, counsel, command, hire, persuade, procure, aid, or abet, any such deputy, clerk, agent, letter-carrier, post-boy, or rider, or any officer or person whatsoever employed by or under the said office, in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the said office, to commit any of the offences

Offences of persons assisting others employed by the post-office, how to be punished.

52 Geo. 3, c. 143.

hereinbefore mentioned, or shall, with a fraudulent intention, buy or receive the whole or any part or parts of any such security or instrument, as hereinbefore described, which shall have been contained in, and which, at the time of buying or receiving thereof, he or she shall know to have been contained in any such letter or packet so secreted, embezzled, stolen, or taken by any deputy, clerk, agent, letter-carrier, post-boy, or rider, or any other officer or person so employed, as aforesaid, or which such person so buying or receiving, as aforesaid, shall, at the time of buying or receiving thereof, know to have been contained in and stolen and taken out of any letter or packet, stolen and taken from or out of any mail or bag of letters sent and conveyed by such post, or from or out of any post-office, or house or place for the receipt or delivery of letters or packets, or bags or mails of letters, sent or to be sent by such post; every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy, and shall and may be tried, convicted, and attainted of such felony, as well before as after the trial or conviction of the principal felon, and whether the said principal felon shall have been apprehended or shall be amenable to justice or not.

42 Geo. 3, c. 81.
Persons secreting
or refusing to de-
liver up letters,
which shall be
found or picked
up, &c. guilty of
a misdemeanor.

By the 42 Geo. III. c. 81, s. 4, it is enacted, that if any person shall wilfully secrete, keep, or detain, or, being required to deliver up by any deputy, clerk, agent, letter-carrier, post-boy, rider, driver, or guard, of any mail coach, or any other officer or person whatsoever, employed in any business relating to the post-office, shall refuse or wilfully neglect to deliver up any mail or bag of letters sent or conveyed, or made up in order to be sent or conveyed, by the post, or any letter or packet sent by the post, or put for that purpose into any post-office, or house or place for the receipt or delivery of letters, &c. and which letter or packet, bag or mail of letters, shall have been found or picked up by the same or any other person, or shall, by or through accident or mistake, have been left with or at the house of the same or any other person; each and every person so offending shall be deemed to be guilty of a misdemeanor, to be punished by fine and imprisonment.

5 Geo. 4, c. 30.
Persons employ-
ed in the post-
office embezzling
votes, parliamen-
tary proceedings,
or newspapers,
&c. misde-
meanor.

And the 5 Geo. IV. c. 20, s. 10, reciting, "that serious loss, inconvenience, and injury, may be sustained by the wilful embezzling or purloining of printed votes or proceedings in Parliament, and printed newspapers, sent or to be sent by the post, within the United Kingdom," enacts, "that from and after the passing of this act [12th April, 1824], if any deputy, clerk, agent, letter-carrier, letter-sorter, post-boy, or rider, or any other officer or person whatsoever, employed, or hereafter to be employed, in receiving, stamping, sorting, charging, conveying, or delivering letters or packets, or in any other business relating to the post-office in the said United Kingdom, shall wilfully purloin, embezzle, secrete, or destroy, or shall wilfully permit or suffer any other person or persons to purloin, embezzle, secrete, or destroy, any printed votes or proceedings in Parliament, or printed newspapers, or any other printed paper whatsoever, sent or to be sent by the post without covers, or in covers open at the sides, each and every such person or persons so offending shall be deemed and taken to be guilty of a misdemeanor, and be punished by fine and imprisonment; and such offences shall and may be inquired of, tried, and determined, either in the county where the offence shall be committed, or where the party shall or may be apprehended."

9 Anne, c. 10.
Measurer's oath.

By the 9 Anne, c. 10, s. 12, and 5 Geo. III. c. 25, s. 9, 10, persons appointed from time to time to measure the post roads shall be sworn to perform the same according to the best of their skill and judgment, before a justice of the peace, who shall make a certificate thereof in writing, to be entered in the general post-office, without fee.

Inspection of let-
ters by govern-
ment.

It should be observed, that notwithstanding the above enactments against detaining or opening letters, the correspondence of the kingdom is still liable to the inspection of government; for, by a warrant from one of the principal secretaries of state, letters may be detained and opened. One of the

reasons assigned in the ordinance made in 1657, for the establishment of the general post-office, is, "that it will be the best means to discover and prevent many dangerous and wicked designs against the commonwealth." 1 *Bla. Com.* 322, note. (a)

It was determined so long ago as 13 Wil. III. in the case of *Lane v. Cotton*, by three judges of the Court of King's Bench, though contrary to *Lord C. J. Holt's* opinion, that no action could be maintained against the postmaster-general for the loss of bills or articles sent in letters by the post. 1 *Ld. Raym.* 646; 1 *Cowp. Rep.* 100. A similar action was brought against *Lord Le Despencer* and *Mr. Carteret*, postmaster-general in 1778, to recover a bank note of 100*l.*, which had been sent by the post and was lost. *Lord Mansfield* delivered the opinion of the court, that there was no resemblance or analogy between the postmasters and a common carrier, and that no action for any loss in the post-office could be brought against any person except him by whose actual negligence the loss accrued. *Cowp.* 754, 765. For this reason it is recommended by the secretary of the post-office to cut bank notes and to send one half at a time. This is the only safe method of sending bank notes, as the Bank would never pay the holder of that half which had been fraudulently obtained.

Liability of postmaster for loss, &c., of letters.

(3.) Postage of Inland and Irish Letters.

It may be as well to observe, in the first place, that postmasters in country towns are frequently in the habit of charging a half-penny and a penny a letter on delivery at the houses in the town above the Parliamentary rates, under the pretence that they are not obliged to carry the letters out of the office *gratis*. But it has been repeatedly decided that such demand is illegal, and that they are bound to deliver the letters to the inhabitants within the usual and established limits of the town, without any addition to the rate of postage. *Rowning v. Goodchild*, 3 *Wils.* 443; 2 *Black. Rep.* 906; 5 *Burr.* 2709; 2 *Rol. Rep.* 906; *Cowp.* 182. And an action lies against a deputy-postmaster for non-delivery of letters *gratis* in a country post town. *Id.*

Charging beyond postage.

But by the 41 Geo. III. (United Kingdom) c. 7, s. 5 and 6, and 46 Geo. III. c. 92, s. 2 and 3, *ante*, 180, letters may be conveyed to and from places not being post towns, and charged with extra prices.

The penny post was set up in London by one Murray, in 1681; it was claimed by government in 1711, and raised to 2*d.* in 1724. Twopenny post.

And by the 45 Geo. III. c. 11, s. 1, for the conveyance of every letter, originally sent by the twopenny post, and not first passing, and afterwards to pass by the general post, directed to or sent from places beyond the delivery of the general-post letter-carriers, 1*d.*; for every letter originally passing by the general post, directed to places beyond the delivery of the general post, and afterwards delivered by the twopenny post, 2*d.*

Twopenny-post letters delivered out of general post delivery, additional.

By the 41 Geo. III. U. K., c. 7, so much of the 9 Anne, c. 10, 5 Geo. III. c. 25, 24 Geo. III. c. 37, and 37 Geo. III. c. 18, as establishes certain rates of postage for carriage of letters, is repealed; and in lieu thereof the following imposed:—

Threepenny and general post.

Miles.		Miles. Single.		Double.		Treble.		Ounce.	
		<i>d.</i>		<i>s.</i> <i>d.</i>		<i>s.</i> <i>d.</i>		<i>s.</i> <i>d.</i>	
Above	— not exceeding	15	3	0	6	0	6	1	0
—	15	30	4	0	8	1	0	1	4
—	30	50	5	0	10	1	3	1	8
—	50	80	6	1	0	1	6†	2	6
—	80	120	7	1	2	1	9	2	4
—	120	170	8	1	4	2	0	2	8
—	170	230	9	1	6	2	3	3	0
—	230	300	10	1	8	2	6	3	4

† *Sic.*

(a) And see stat. 24 Geo. III., stat. 2, c. 37, s. 4, 5, as to opening foreign letters suspected to contain prohibited goods, *post*, 191, and statutes 35 Geo.

III. c. 62, and 17 Geo. III. st. 2, c. 53, enabling the postmaster-general to open and return letters to foreign parts in consequence of certain political emergencies.

Inland letters.

But where the distance above 300 miles is more than 100 miles, a further sum of, for every single letter, 1*d.*; double, 2*d.*; treble, 3*d.*; an ounce, 4*d.*; and so on progressively for every further distance of 100 miles a like further sum, for a single letter, 1*d.*; double, 2*d.*; treble, 3*d.*; an ounce, 4*d.*; and so in proportion.

By the 52 Geo. III. c. 88, s. 1, the following additional rates, being rated by the letter or by the ounce, are established for the carriage of letters by the post in Great Britain, above the distance of twenty miles, from the office where such letters may be put in to the office where the same may be directed: viz.

	£.	s.	d.
For every Single Letter	0	0	1
For every Double Letter	0	0	2
For every Treble Letter, or other Letter under an Ounce in Weight	0	0	3
And for every Ounce in Weight, and for every Packet not exceeding an Ounce in Weight	0	0	4
And so in proportion for every other letter or packet of greater weight than an ounce.			

By the third section of the act, these rates of postage are not to extend to letters sent by or to seamen and soldiers, under the 35 Geo. III. c. 53.

By the fourth section, the powers of former acts are extended to that act.

Letters inclosing patterns.

By the 26 Geo. II. c. 13, s. 8, for every single letter or cover containing one or more papers with patterns, or one or more patterns of cloth, silk, or stuff, or one or more samples of any other sort of goods, or one or more piece or pieces of any other sort or thing inclosed therein or affixed thereto, though not paper, if the same do not weigh an ounce, the rates payable by 9 Anne, c. 10, for a double letter.

But by the 35 Geo. III. c. 53, s. 9, every such packet or cover shall be sent open at the sides, and without any letter or writing in, upon, or with such packet or cover, other than the name of the person sending the same and the place of his abode, and the prices of the articles contained therein or affixed thereto.

By the 45 Geo. III. c. 11, s. 1, for every such letter or packet with such inclosures, sent according to the 26 Geo. II. c. 13, and 35 Geo. III. c. 54, there shall be paid the sum of 1*d.*

Additional rates on letters inclosing patterns.

And by the 52 Geo. III. c. 88, s. 2, for the conveyance by the post of every letter, packet, or cover, containing patterns of cloth, silk, stuff, or samples of other goods or other sort of thing, not exceeding one ounce in weight, if the same letter or packet or cover shall be closed or not open at the sides, an additional rate of 2*d.* for every such letter, packet, or cover: and for the conveyance by the post of every letter or cover containing one or more paper or papers with patterns, or containing one or more pattern or patterns of cloth, silk, or stuff, or one or more sample or samples of any other sort of goods, or one or more piece or pieces of any other sort of thing inclosed therein or affixed thereto, though not on paper, if the same do not weigh an ounce, an additional rate of one penny for every such letter, so as every such letter, packet, or cover shall be sent open at the sides and without any letter or writing in, upon, or with such packet or cover, other than the name of the person sending the same, and the place of his abode, and the prices of the articles contained therein, or affixed thereto.

Letters containing other letters, &c., on same sheet.

By the 6 Geo. I. c. 21, s. 51, bills of exchange written on the same piece of paper with a letter, and several letters to several persons, written on the same piece of paper, shall pay as so many distinct letters.

By the 26 Geo. II. c. 13, s. 7, writs or other proceedings at law, inclosed or written on the same piece of paper with a letter, shall pay as so many distinct letters.

And by the 41 Geo. III. (U. K.) c. 7, s. 4, all merchants' accounts, bills of exchange, invoices, and bills of lading, shall be rated as so many several letters, or by the ounce, according to the rates by this act made payable on letters

conveyed by the general post. But this provision is materially altered by the 7 & 8 Geo. IV. c. 21, s. 13, *post*, 193.

By the 24 Geo. III. sess. 2, c. 37, s. 4, for preventing prohibited goods being imported in letters or packets, the officer employed at the post-office where any foreign letter or packet containing any inclosure shall be received may carry the same before a justice for the county, or magistrate for the town, in which such office is situate, and upon oath made that he suspects the same to contain goods which are prohibited to be imported, or upon which a duty is payable upon importation, shall, in the presence of such magistrate, cut open (b) a slit in such letter or packet not exceeding two inches in length; and if it shall appear to such magistrate that any such goods are contained therein, he shall open the same, and in the presence of such officer destroy such goods, and inclose such letter or packet in a cover, in which shall be written an attestation signed by him of the name of the officer who brought the same, and the time when, and the quantity and description of goods found therein, and that the same were destroyed; which cover shall be sealed and forwarded to the commissioners of the customs, who, on receipt thereof, shall pay to the said officer any sum not exceeding 5*l.* nor less than 10*s.*

Prohibited goods, suspected to be in foreign letters.

Sect. 5. And if on making such slit as aforesaid no such goods shall be found in such letter or packet, such magistrate shall inclose the same in a cover, and shall therein also send an attestation signed by him that the said opening was made in his presence, and shall deliver the same sealed up to the said officer, to be forwarded by the ordinary course. And no additional postage shall be charged in consequence of such proceeding.

By the 5 Geo. IV. c. 20, s. 1, it is enacted, "that from and after the passing of this act, it shall and may be lawful to and for his majesty's postmaster-general and his deputy and deputies, in his discretion, to receive at the General Post-Office in London, packets containing re-issuable cash notes only, issued by country bankers under annual license, and payable at the houses of their respective agents in London, which cash notes have been paid by such agents in London for conveyance by the post within Great Britain at his discretion, to the bank in the town or place from which such cash notes were first issued, and to no other bank, town, or place whatever; and to demand, have, receive, and take for the conveyance of such packets, to and for the use of his majesty, his heirs, and successors, rates of postage not exceeding one-fourth part of the rates and duties of postage by law established, or which may hereafter be established for the conveyance of letters and packets by the post; any law, statute, custom, or usage, to the contrary notwithstanding."

Re-issuable cash notes issued by country bankers, and paid in London, may be conveyed by post to the banks whence first issued, at rates herein mentioned.

Sect. 2. "That no such packet shall be conveyed under the provisions in this act unless the same shall exceed six ounces in weight, and shall be superscribed 're-issuable country bank notes only,' and certified by the signature of the agent or agents of such country bank, or one of them, in his or their own handwriting; and provided that the said packets shall contain no writing, communication, matter, or thing whatever."

Packets conveyed to exceed six ounces, &c.

Sect. 3. "That such packets shall be delivered to the postmaster-general, or his deputy or deputies, at the General Post-Office in London, at such hours in the day and under such regulations as the postmaster-general for the time being shall in his discretion from time to time appoint, and such packets shall also be delivered by the deputy or deputies of the postmaster-general in the country under such regulations and restrictions as the postmaster-general for the time being shall from time to time think fit to appoint."

Time of delivery at post-office regulated by postmaster-general.

Sect. 4. "That it shall and may be lawful to and for his majesty's postmaster-general, and his deputy and deputies, in his or their discretion, to detain any such packet, and in the presence of the sender or senders thereof, or in his or their absence, in case of non-attendance after notice in writing left at his or their place of abode, requiring his or their attendance, to open, examine, and search the same, in order to discover whether any writing, communication, matter, or thing, other than re-issuable notes only, shall be contained therein; and in case upon examination thereof it shall be discovered that any such writing, communication, matter, or thing, other than re-issuable notes, shall be

Packets may be detained and examined.

Finding anything other than re-issuable bank notes in the packet, penalty, 20*0*l.**

(b) And see farther, as to the power to open letters, *ante*, 188 and 189, *note* (a).

55 Geo. 4, c. 20.

contained therein, then the sender or senders of such packets shall forfeit and pay the sum of 200*l.*, to be recovered, with full costs of suit, by action of debt, bill, plaint, or information in any of his majesty's courts of record in Great Britain, where no essoign, protection, privilege, or wager of law shall be admitted; and it shall and may be lawful to and for his majesty's postmaster-general, or his deputy or deputies, to retain such packet until such penalty shall be recovered and paid."

Application of penalties.

Sect. 5. "That one moiety of the pecuniary penalty hereby imposed shall be payable to his majesty, his heirs, and successors, and the other moiety to any person who shall inform and sue for the same, to be recovered, with full costs of suit, by action of debt, bill, plaint, or information in any of his majesty's courts of record in Great Britain, wherein no essoign, protection, or privilege, or wager of law, shall be admitted."

Money arising by rates to be carried to the consolidated fund.

Sect. 6. "That the monies to arise by the several rates and duties as aforesaid, (except the monies which shall be necessary to defray such expense as shall be incurred in the management and collection of the same,) shall be paid into the receipt of the exchequer at Westminster, and carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland."

From July 5, 1827, the duties of postage on letters between Great Britain and Ireland shall be levied according to schedule (A.)

By the 7 & 8 Geo. IV. c. 21, reciting, "that by the laws now in force, imposing certain rates of postage in Great Britain and Ireland respectively, letters conveyed by the post from places in Great Britain to places in Ireland, or from places in Ireland to places in Great Britain, are, by reason of the separate rates payable in each of those parts of the United Kingdom, charged to a higher amount upon the whole than letters conveyed the same distances in Great Britain would be charged; and whereas it is expedient that such difference of charge, affecting exclusively the correspondence between Great Britain and Ireland, should no longer exist;" it is enacted, "that from and after the 5th day of July, 1827, in lieu of all duties of postage granted and made payable under any act or acts in force in Great Britain and Ireland respectively, upon letters so conveyed from either of these parts of the United Kingdom to the other, there shall be levied and paid the like rates of postage, according to the distances which such letters are conveyed, as would be payable on the conveyance of letters from place to place in Great Britain, in addition to the separate rates of packet-postage now payable, and also to the several rates of duty payable under the acts for building the Menai and Conway bridges respectively; the whole being according to the schedule (A) to this act annexed."

All former packet postage between Great Britain and Ireland repealed.

Sect. 2. "That from and after the 5th day of July, 1827, no other packet-postage shall in any case be demanded or paid, or payable, for letters or packets between Great Britain and Ireland, other than such as is specified and set forth in the schedule (A) to this act annexed; and that from and after the said 5th day of July, 1827, all rates or duties of packet-postage between Great Britain and Ireland, under any act or acts passed at any time before the passing of this act, shall cease and determine, and shall be and are hereby repealed, and shall no longer be paid or payable; any thing in any act or acts to the contrary in anywise notwithstanding."

54 Geo. 3, c. 119.

Sect. 3. "And whereas certain rates of postage upon letters and packets conveyed by the post to and from places within Ireland were granted by an act of the fifty-fourth year of his late majesty King George III., intituled, 'An Act to repeal certain Duties upon Letters and Packets sent by the Post within Ireland, and to grant other Duties in lieu thereof,' and such rates of postage were made payable in Irish currency; and whereas, by an act passed in the sixth year of his present majesty's reign, intituled, 'An Act to provide for the Assimilation of the Currency and Monies of Account throughout the United Kingdom of Great Britain and Ireland,' certain provisions are made for the payment of sums under the amount of 12*d.* of the currency of Ireland, by an equivalent number of British pence, halfpence, and farthings, some of which are not generally in circulation in Ireland; and, in order to avoid the inconvenience of collecting the rates of postage in Ireland according to the directions of the said last recited act, it is expedient that such rates of postage should be in future charged and collected in the currency of the United Kingdom of Great Britain and Ireland: be it therefore enacted, that the several rates of postage upon letters and packets sent and conveyed to and from places within Ireland,

6 Geo. 4, c. 79.

Duties of postage in Ireland to be paid in British currency, according to schedule B.)

Sect. 3. "And whereas certain rates of postage upon letters and packets conveyed by the post to and from places within Ireland were granted by an act of the fifty-fourth year of his late majesty King George III., intituled, 'An Act to repeal certain Duties upon Letters and Packets sent by the Post within Ireland, and to grant other Duties in lieu thereof,' and such rates of postage were made payable in Irish currency; and whereas, by an act passed in the sixth year of his present majesty's reign, intituled, 'An Act to provide for the Assimilation of the Currency and Monies of Account throughout the United Kingdom of Great Britain and Ireland,' certain provisions are made for the payment of sums under the amount of 12*d.* of the currency of Ireland, by an equivalent number of British pence, halfpence, and farthings, some of which are not generally in circulation in Ireland; and, in order to avoid the inconvenience of collecting the rates of postage in Ireland according to the directions of the said last recited act, it is expedient that such rates of postage should be in future charged and collected in the currency of the United Kingdom of Great Britain and Ireland: be it therefore enacted, that the several rates of postage upon letters and packets sent and conveyed to and from places within Ireland,

which, by the said hereinbefore recited act of the fifty-fourth year of the reign of his said late majesty, are made payable, according to the several amounts thereof, in Irish currency, shall, from and after the said 5th day of July, be charged, levied, collected, and paid, and payable, according to the several amounts thereof, in the currency and lawful money of the United Kingdom of Great Britain and Ireland, according to the schedule (B) to this act annexed."

Sec. 4. "That from and after the 5th day of July, 1827, it shall be lawful for his majesty's postmaster-general, and his deputy and deputies, to and for the use of his majesty, his heirs and successors, to demand and receive for the conveyance of printed votes and proceedings in Parliament, by packet-boats, from Great Britain and Ireland to any of his majesty's colonies and possessions beyond the seas, after the rate of one penny-halfpenny, and no more, for every ounce weight thereof, and so in proportion, in lieu of any sum payable under any act or acts in force immediately before the passing of this act, any thing in any act or acts to the contrary notwithstanding; the same to be paid when the said printed votes and proceedings shall be put into the post-office: provided every such printed vote and proceeding shall be without a cover, or in a cover open at the sides, and that there be no writing thereon other than the superscription, and that there be no other paper or thing inclosed or concealed therein."

7 & 8 Geo. 4, c. 21.

Parliamentary proceedings sent by packet to the colonies, shall be charged 1½d. per ounce.

Sec. 12. "That from and after the passing of this act, every printed newspaper, or other printed paper, liable to the stamp-duty, and for the conveyance of which any duty of postage is chargeable under any act or acts in force in Great Britain or Ireland, shall and may in all cases be put into the post-office, or receiving-office, of or for the town or place in Great Britain or Ireland in or at which such newspaper shall be published, on any day within seven days next after the day on which the same shall be published, the day of publication to be ascertained by the date of such paper, any thing in any act to the contrary notwithstanding; and, in case any such paper shall be put into any post-office at any time after the expiration of such seven days, such paper shall be charged with a rate of postage equal to that of a single letter sent by the post from the place where such paper was published to the place to which such paper shall be addressed."

Newspapers shall be sent by post within seven days after day of publication.

Sec. 13. "And whereas, by the laws in force, merchants' accounts, bills of exchange, invoices, bills of lading, and proceedings at law, written on one and the same piece of paper with a letter, and also several letters to several and distinct persons, written upon one and the same piece of paper, are liable to be rated, taxed, and paid for as so many several and distinct letters, and it is expedient that the laws in this respect should be altered: be it therefore enacted, "that from and after the passing of this act, all merchants' accounts, bills of exchange, stamped receipts, invoices, bills of lading, and proceedings at law, written on one and the same piece of paper with a letter, shall be allowed and taken without rate in the price of the letter; and that any piece or sheet of paper upon which letters to several and distinct persons shall be written, shall not be charged or chargeable with any higher rate of postage in Great Britain or Ireland than if one letter only were written upon such sheet or piece of paper; any thing in any act or acts to the contrary notwithstanding."

Letters with merchants' accounts, &c., and letters to more than one person, on the same paper, shall be charged only as single letters.

Sec. 16. "That all the powers, provisions, privileges, advantages, disabilities, penalties, forfeitures, and distribution thereof, and all clauses and other matters and things contained in any act or acts in force at the time of the passing of this act, relating to the post-office, or any rates or duties payable on the port or conveyance of letters or packets in Great Britain and Ireland, and not repealed or altered by this act, shall, so far as the same are applicable, continue in force, and be applied and extended, and shall be construed to apply and extend, to this present act, and to the rates and duties hereby made payable, as fully and effectually to all intents and purposes as if the same had been particularly repeated and re-enacted in the body of this act."

Powers of acts relating to the post-office extended to this act.

The stat. 7 and 8 Geo. IV. c. 21, then gives the following schedule:—

(5.) Postage for Conveyance by Packets.

39 Geo. 3, c. 76.
Letters may be
conveyed by ves-
sels not being
packet-boats.

By the 39 Geo. III. c. 76, s. 1, the postmaster-general and his deputy may collect and receive letters and packets of letters, directed to places within his majesty's dominions, also to any the kingdoms and countries beyond the seas, and forward the same by any vessel that he shall think fit (although not a packet boat), and also take for every letter and packet delivered to him or them for conveyance as aforesaid, a sum not less than one-half of the rates payable by law for such respective letters and packets, if the same were conveyed by packet-boats; and where no rate of postage is already established, then for such letters and packet rates as near as may be equal to one-half of what is now paid for letters sent beyond the seas.

See 84 Geo. 3, c.
169, *infra*.

Sect. 2. Such postmaster-general shall take for every letter and packet brought by vessels (other than packet-boats), in manner aforesaid, from places within his majesty's dominions, and from any the kingdoms and countries beyond the seas into Great Britain, to be conveyed by inland postage, 4d. every single letter, and so in proportion for packets, in addition to any inland postage which may arise upon the inland conveyance of such letters and packets; and for the encouragement of the masters of such vessels, such postmaster-general shall allow them 2d. a letter or packet upon all such as they shall have or take on board such vessels, provided such letters or packets shall have been delivered to them from the post-office; and in like manner on their arrival from parts beyond the seas, on their delivery at the post-office of any post town at which they shall touch or arrive, 2d. a letter or packet for all such as they shall have on board, provided the same be regularly delivered.

Sect. 3. And the postmaster-general may order the rates of postage chargeable to be paid either prior to such letters and packets being forwarded, or on the delivery thereof, as to him shall seem meet.

54 Geo. 3, c. 169.

55 Geo. 3, c. 153.

By the 54 Geo. III. c. 169, s. 1, so much of the 39 Geo. III. c. 76, s. 2, as grants a postage of 4d., &c. for ship-letters, is repealed. And the 55 Geo. III. c. 153, s. 27, repeals s. 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, of the 54 Geo. III. c. 169. By the 54 Geo. III. c. 169, s. 3, it shall be lawful for his majesty's postmaster-general and his deputies to receive letters and packets directed to places within his majesty's dominions, and to kingdoms and countries beyond the seas, from any person who may bring the same to any post-office in Great Britain, and who may be desirous to forward such letters themselves, and to affix upon each letter or packet such stamp, mark of postage, or designation, as the postmaster-general in his discretion shall think proper and order, and thereupon to demand and receive, for the use of his majesty, a rate of postage of one-third part of the rates and duties payable by law for such respective letters and packets, if the same were conveyed by packet-boats, and in cases where no rate of postage is already established, then to demand, have, receive, and take for such letters and packets, rates as near as can be ascertained equal to one-third part of what is now paid for letters sent beyond the seas, and upon payment thereof to return such letters and packets to the person or persons bringing the same, and it shall be lawful for such person to forward such letters and packets to the places to which they may be directed by any ships or vessels that he may think proper, not being packet-boats, without incurring any penalty therefore, and without payment of any other rate or duty of postage.

Persons bringing
letters to post-
office and paying
certain rate of
postage, empow-
ered to forward
same by any ves-
sel not being a
packet-boat.

Postmaster-gene-
ral may authorise
persons to col-
lect letters and
forward same by
vessels other than
packet-boats.

Sect. 4. It shall be lawful for his majesty's postmaster-general, by writing under his hand, and under seal of the office of postmaster-general, to license and authorize any person to collect letters and packets in Great Britain, directed to places within his majesty's dominions, and to kingdoms and countries beyond the seas, for the purpose of being forwarded according to their directions by any ships or vessels, other than packet-boats, provided that such persons so to be licensed shall, previous to forwarding the same, bring such letters and packets to the post-office of the town or place to have a stamp, mark of postage, or designation, put thereon, which stamp, mark of postage, or designation, the postmaster-general and his deputies are hereby authorized and required to put thereon, and to demand, receive, and take, for the use of

(4.) Postage of Foreign Letters.

By the 37 Geo. III. c. 18, s. 4, (which imposed certain rates of postage, and which rates were repealed by the 41 Geo. 3, (United Kingdom, c. 7,) it was enacted, that over and above such rate, all letters and packets passing to or from Portugal, from or to England, shall be charged with the full inland postage by this act (37 Geo. III. c. 18,) established.

37 Geo. 3, c. 18.

By the 41 Geo. III. (United Kingdom) c. 7, s. 1, the rates of postage imposed by the 9 Anne, c. 10; 5 Geo. III. c. 25; 24 Geo. III. sess. 2, c. 37; and 57 Geo. III. c. 18, are repealed.

41 Geo. 3, (U. K.) c. 7.

And by sect. 2, there shall be paid, for conveyance of letters to or from any place of the United Kingdom from or to any place out of the same, not within his majesty's dominions, in addition to all other rates now payable, for every single letter, 4*d.*; double, 8*d.*; treble or other under an ounce, 1*s.*; ounce, and every packet not exceeding an ounce, 1*s.* 4*d.*; and so in proportion for every other of greater weight than an ounce.

By the 52 Geo. III. c. 88, from Great Britain to the king's dominions in America, additionally, single letter, 2*d.*; double, 4*d.*; treble letter, or other letter under an ounce, 6*d.*; packet not exceeding an ounce, 8*d.*; and so in proportion for every letter or packet greater than an ounce in weight.

52 Geo. 3, c. 88.

By the 3 Geo. IV. c. 105, s. 1, it shall be lawful to take and receive the following additional rates of postage for the conveyance of letters and packets from Liverpool to the Isle of Man, viz.

Isle of Man.
3 Geo. 4, c. 105.

For every single letter	£0	0	6
For every double letter	0	1	0
For every treble letter	0	1	6
And for every ounce in weight	0	2	0

Rates of postage.

And so in proportion for every letter and packet exceeding the weight of an ounce.

Sect. 2. It shall be lawful for the postmaster-general to cause the rates of postage hereby chargeable, to be paid either prior to such letters and packets being forwarded, or on delivery, as to him in his discretion may seem meet.

Postage, how payable.

Sect. 3. The rates and duties aforesaid (except the monies which shall be necessary to defray the expenses of collection and management of the same) shall be paid into the exchequer, and carried to the consolidated fund.

Duties to be carried to the consolidated fund.

By the 45 Geo. III. c. 11, from March 12, 1805, the following additional sums are made payable for the conveyance of foreign letters, viz.

45 Geo. 3, c. 11.

For the conveyance of letters by post, from and to Great Britain, to and from parts beyond the seas, not within his majesty's dominions, additionally, single letter, 2*d.*; double, 4*d.*; treble letter, or other letter not exceeding an ounce, 6*d.*; packet not exceeding an ounce, 8*d.*; and so in proportion, for every other letter or packet of greater weight than an ounce.

Sect. 2. And over and above the rates and duties hereby granted, all letters and packets passing from Great Britain to the British dominions in America, to or through the kingdom of Portugal, to the islands of Guernsey and Jersey, and the Isle of Man, and all letters and packets from those respective countries to Great Britain, shall be charged with the inland rate of postage hereby established, of 1*d.* for each single letter, and so in proportion for double, treble, and other letters, according to the weight thereof, for their inland conveyance.

Letters passing to or from the British dominions in America, &c. to be charged with an additional rate.

Additional rates of the 52 Geo. III. not to extend to Guernsey, Jersey, or Isle of Man, excepting postage within Great Britain.

By the 52 Geo. III. c. 88, for conveyance of letters by post to and from parts beyond the seas, whether or not within his majesty's dominions, for every single letter, 2*d.* additional rate; double, 4*d.*; treble, or other under an ounce, 6*d.*; every packet not exceeding an ounce, 8*d.*; and so in proportion for every other letter of greater weight than an ounce.

52 Geo. 3, c. 88.

The 7 & 8 Geo. IV. c. 6, relates to postage of letters to and from St. Domingo to Cuba.

7 & 8 Geo. 4, c. 6.

(5.) Postage for Conveyance by Packets.

39 Geo. 3, c. 76.
Letters may be
conveyed by ves-
sels not being
packet-boats.

By the 39 Geo. III. c. 76, s. 1, the postmaster-general and his deputy may collect and receive letters and packets of letters, directed to places within his majesty's dominions, also to any the kingdoms and countries beyond the seas, and forward the same by any vessel that he shall think fit (although not a packet boat), and also take for every letter and packet delivered to him or them for conveyance as aforesaid, a sum not less than one-half of the rates payable by law for such respective letters and packets, if the same were conveyed by packet-boats; and where no rate of postage is already established, then for such letters and packet rates as near as may be equal to one-half of what is now paid for letters sent beyond the seas.

See 54 Geo. 3, c.
169, *infra*.

Sect. 2. Such postmaster-general shall take for every letter and packet brought by vessels (other than packet-boats), in manner aforesaid, from places within his majesty's dominions, and from any the kingdoms and countries beyond the seas into Great Britain, to be conveyed by inland postage, 4d. every single letter, and so in proportion for packets, in addition to any inland postage which may arise upon the inland conveyance of such letters and packets; and for the encouragement of the masters of such vessels, such postmaster-general shall allow them 2d. a letter or packet upon all such as they shall have or take on board such vessels, provided such letters or packets shall have been delivered to them from the post-office; and in like manner on their arrival from parts beyond the seas, on their delivery at the post-office of any post town at which they shall touch or arrive, 2d. a letter or packet for all such as they shall have on board, provided the same be regularly delivered.

Sect. 3. And the postmaster-general may order the rates of postage chargeable to be paid either prior to such letters and packets being forwarded, or on the delivery thereof, as to him shall seem meet.

54 Geo. 2, c. 169.

55 Geo. 3, c. 153.

By the 54 Geo. III. c. 169, s. 1, so much of the 39 Geo. III. c. 76, s. 2, as grants a postage of 4d., &c. for ship-letters, is repealed. And the 55 Geo. III. c. 153, s. 27, repeals s. 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, of the 54 Geo. III. c. 169. By the 54 Geo. III. c. 169, s. 3, it shall be lawful for his majesty's postmaster general and his deputies to receive letters and packets directed to places within his majesty's dominions, and to kingdoms and countries beyond the seas, from any person who may bring the same to any post-office in Great Britain, and who may be desirous to forward such letters themselves, and to affix upon each letter or packet such stamp, mark of postage, or designation, as the postmaster-general in his discretion shall think proper and order, and thereupon to demand and receive, for the use of his majesty, a rate of postage of one-third part of the rates and duties payable by law for such respective letters and packets, if the same were conveyed by packet-boats, and in cases where no rate of postage is already established, then to demand, have, receive, and take for such letters and packets, rates as near as can be ascertained equal to one-third part of what is now paid for letters sent beyond the seas, and upon payment thereof to return such letters and packets to the person or persons bringing the same, and it shall be lawful for such person to forward such letters and packets to the places to which they may be directed by any ships or vessels that he may think proper, not being packet-boats, without incurring any penalty therefore, and without payment of any other rate or duty of postage.

Persons bringing
letters to post-
office and paying
certain rate of
postage, empow-
ered to forward
same by any ves-
sel not being a
packet-boat.

Postmaster-gene-
ral may authorize
persons to col-
lect letters and
forward same by
vessels other than
packet-boats.

Sect. 4. It shall be lawful for his majesty's postmaster-general, by writing under his hand, and under seal of the office of postmaster-general, to license and authorize any person to collect letters and packets in Great Britain, directed to places within his majesty's dominions, and to kingdoms and countries beyond the seas, for the purpose of being forwarded according to their directions by any ships or vessels, other than packet-boats, provided that such persons so to be licensed shall, previous to forwarding the same, bring such letters and packets to the post-office of the town or place to have a stamp, mark of postage, or designation, put thereon, which stamp, mark of postage, or designation, the postmaster-general and his deputies are hereby authorized and required to put thereon, and to demand, receive, and take, for the use of

his majesty, the same rates of postage as are hereby made payable for letters and packets, to be forwarded by persons bringing the same in manner hereinbefore provided; and upon such payment being made, to return such letters and packets to the persons so to be licensed; and it shall be lawful for such authorized persons to forward such letters and packets by any ships or vessels that he or they may think proper, not being packet-boats, without incurring any penalty therefore, and without payment of any other rate of postage.

Sect. 15. This act shall not extend to restrain nor to prevent the East-India Company, nor their court of directors, from sending and receiving, and causing to be sent and received, to and from any of their governments and servants abroad, all packets, letters, and papers whatsoever, relating to the affairs, business, and concerns of the said company, and of their several governments abroad, in the manner heretofore accustomed by the said company and their court of directors, without payment of any postage or duty, nor to subject any person to any penalty in respect thereof.

Sect. 16. It shall be lawful for the president of the board of commissioners for the affairs of India for the time being, to send and receive letters and packets by the post, free from the duty of postage, within the United Kingdom, in the same manner and under such restrictions as the Lord High Chancellor of Great Britain is, by the 46 Geo. III. c. 61, s. 1, authorized to send and receive letters and packets free from postage.

84 Geo. 3, c. 100.

President of the board of commissioners for the affairs of India to send and receive letters free from postage.

By the 46 Geo. III. c. 73, is granted (over and above all other rates for such letters and packets within the United Kingdom), for every letter and packet carried or conveyed by packet-boats from or to the port of Falmouth, or from or to any other convenient port in the United Kingdom, to or from the town and fortress of Gibraltar, a packet postage, according to the rates and sums in sterling money hereinafter mentioned, the same being rated either by the letter or the ounce.

46 Geo. 3, c. 73. Packet postage,

to and from Gibraltar,

For every single letter, 1s. 9d.; double, 3s. 6d.; treble, 5s. 3d.; and for every ounce, 7s.; and so in proportion for every packet of greater weight than an ounce.

And to and from the Island of Malta, for every single letter, 2s. 1d.; double, 4s. 2d.; treble, 6s. 3d.; ounce, 8s. 4d.; and so on in proportion for every packet of greater weight than an ounce.

to and from Malta,

And between Gibraltar and Malta, every single letter, 6d.; double, 1s.; treble, 1s. 6d.; ounce, 2s.; and so in proportion for every packet of greater weight than an ounce.

between Gibraltar and Malta,

And by the 48 Geo. III. c. 116, to or from the port of Falmouth, from or to Madeira, single letter, 1s. 6d.; double, 3s.; treble, 4s. 6d.; ounce, 6s.; and so in proportion for every packet greater than an ounce.

to and from Madeira,

And to or from Brazil, or any of the Portuguese territories in South America, single letter, 2s. 5d.; double, 4s. 10d.; treble, 7s. 3d.; ounce, 9s. 8d.; and so in proportion for any packet greater than an ounce.

to and from Brazil.

By the 55 Geo. III. c. 153, s. 2, "it shall and may be lawful for any person or persons to send and receive by any mails despatched to and from the East Indies, the Mauritius, and the Cape of Good Hope, any newspapers or printed prices current, and also any printed papers liable to the stamp duties, and duly stamped, paying for the same three-pence for each packet, not exceeding one ounce; and for each packet exceeding one ounce, at the rate of three-pence per ounce; and provided that the same be sent in covers open at the sides or ends."

Rates for newspapers, &c.

Sect. 3. "And, inasmuch as it may on some occasions be of advantage to correspondence, that letters and packets should be sent to and from the East Indies and the Cape of Good Hope, by his majesty's ships of war and store ships, and by the ships in the service of the said united company sailing between this country and India, and the Cape of Good Hope, and by ships employed in the private trade to and from India; be it therefore further enacted, that it shall and may be lawful to and for the postmaster-general in his discretion, by and with the consent of the lords commissioners of the admi-

Mails carried by ships of war, &c.

55 Geo. 3, c. 153.

ralty, to make up and send mails of letters to and from any port or place in the East Indies, within the limits of the said united company's charter (save and except the dominions of the Emperor of China), and to and from the Cape of Good Hope, by any of his majesty's ships of war and store ships, or by any of the ships in the service of the said united company, or by ships employed in the private trade to and from India; and that when and so often as mails of letters shall be so conveyed, it shall and may be lawful to and for the postmaster-general and his deputies, for the use of his majesty, his heirs and successors, to demand, have, receive, and take the same rates and duties, as if the letters were conveyed by vessels or packet boats, to be established under the authority of this act."

Rates.

Commanders authorized to receive mails.

Sect. 4. "That the commander of any such ship of war, with the consent and permission of the lords commissioners of the admiralty, and the commander of any such ship in the service of the said united company, with the consent of the said company, and the commander of any ship employed in the private trade to and from India, with the consent of his owners, is hereby authorized and required to receive on board his ship, such mails of letters and packets, and to convey and deliver the same accordingly; and such commanders respectively shall not incur or be liable to any penalty for receiving on board or conveying such letters and packets in manner aforesaid; any law or statute to the contrary notwithstanding."

East-India Company not to charge postage, except inland, &c.

Sect. 5. "That it shall not be lawful for the said united company, or the commander of any ship in the service of the said company, or any commander of any ship in the private trade to and from India, to charge, demand, or receive any rate or rates of postage for any mails of letters, other and except any such postage as may be legally due to the said company for the inland postage, or conveyance of any such letters in India, or for any sealed bags, packages, or parcels of letters, which may at any time be forwarded by the postmaster-general, by the ships of the said united company, or by any such private ship."

Postmaster-general to pay company for conveyance of mails.

Sect. 6. "Provided that it shall and may be lawful for the postmaster-general, whenever the ships of the said united company, or any private ships, are employed as packets, to pay the said united company, and the owners of any such private ships, for the freight or conveyance of any such mails of letters, such reasonable sum, and in such manner, as shall be authorized and directed by the lords of the treasury, or any three of them."

Mail made up monthly for India.

Sect. 7. "That a mail shall be made up and despatched to India once in every month, as far as may be found practicable, either by the vessels to be established and hired by the postmaster-general under the authority of this act, or by a ship of war, or a ship in the service of the East-India Company, or by a ship employed in the private trade to and from India."

Goods allowed to be carried in packets.

Sect. 8. "That it shall and may be lawful for the postmaster-general, in such proportions and in such manner as the lords commissioners of his majesty's treasury, or any three or more of them, shall by warrant in writing direct (any law or statute to the contrary notwithstanding), to permit the exportation on freight, or on account of the owners, or of the public service, in such vessels or packet-boats navigated according to law, from the port of London, or any port or ports within the kingdom of Great Britain, or any intermediate port between Great Britain and the East Indies, to all ports and places within the limits of the charter of the said united company, and to the islands of St. Helena, the Mauritius, and the Cape of Good Hope (save and except the dominions of the Emperor of China), any goods, wares, and merchandize (tea excepted), which can now or may at any times hereafter be legally exported; and also to permit the importation on freight, or on account of the owners, or of the public service, in such vessels or packet-boats navigated according to law, from all ports and places within the limits of the said united company's charter, and from the Cape of Good Hope, the Mauritius, and the island of St. Helena (save and except as aforesaid, into the port of London, or any port in Great Britain, of any goods, wares, and merchandize which are now or may at any time or times hereafter be legally imported; subject nevertheless to the several restrictions, conditions, and limitations in this act contained."

Except tea.

Quantity of tea on board limited.

Sect. 9. "Provided, that it shall and may be lawful to ship, carry, or put on

board, or permit or suffer to be shipped, carried, or put on board such vessels or packet-boats, and any ships or vessels legally trading to and from the East Indies, such quantity of tea as shall be requisite for the use of the crew of any such ship, during the voyage, not exceeding two pounds for each man on board; and in case there shall be found on board any such ships or vessels as aforesaid, on their arrival at any port or place in the British islands, or within two hundred miles of the same, any tea exceeding in quantity one hundred pounds' weight, every commander shall incur and be liable to a penalty of 2*l.* for every pound weight of tea exceeding such a quantity." 56 Geo. 3, c. 153.

Sect. 10. Provided, "that it shall not be lawful to export or import any goods, wares, or merchandize in any vessel or packet-boat to be employed under the authority of this act, unless such vessel or packet-boat shall be of the burthen of three hundred and fifty tons at the least."

Goods not carried but in vessels of 250 tons and upwards.

Sect. 11. "That if any commander of any vessel or packet-boat to be established under the authority of this act, having received his majesty's mail on board, and having received his clearance, shall wilfully neglect to sail and proceed on his voyage within twenty-four hours after the time of receiving the mail on board and his clearance (wind and weather permitting), or shall wilfully deviate from the course of his voyage, such commander for every such neglect shall forfeit and pay the sum of 500*l.*: provided always, that it shall be lawful for the court of directors of the said united East-India Company to give directions to delay the sailing of any ship or vessel belonging to and employed by the said company, for a time to be limited or specified, giving notice of such directions to the postmaster-general within twenty-four hours thereof."

Delaying sailing after receiving mail.

Penalty.

Provided.

Sect. 12. "That for the port and conveyance of all and every the letters and packets that shall be carried or conveyed by vessels not employed as packets from Great Britain, to the Cape of Good Hope, the Mauritius, and the East Indies, there shall be charged and payable a sea postage of 1*s.* 2*d.* a single letter, and so in proportion for packets; such postage to be paid on delivery of the letters at the Cape, the Mauritius, and the East Indies, as the case may be."

Rates of letters conveyed in vessels not employed as packets from Great Britain.

Sect. 13. "That if any person shall send without authority of the postmaster-general, to the Cape of Good Hope, the Mauritius, or the East Indies, any letter or packet, or if any commander of any ship or vessel, or any other person, shall carry or convey any letter or packet without such authority to the Cape of Good Hope, the Mauritius, or the East Indies, every such person so offending shall forfeit and pay the sum of 5*l.* for every letter so sent or conveyed."

Sending, &c. letters without authority.

Penalty.

Sect. 14. "That the commander of any ship sailing to the Cape of Good Hope, the Mauritius, or the East Indies, is hereby authorized and required to take charge of and convey any bags of letters, subject to the aforesaid rate of 1*s.* 2*d.*, which shall be delivered to him by order or authority of the postmaster-general."

Commanders to take charge of bags delivered by order of postmaster.

Sect. 15. "And, for the services performed by the commanders of such vessels, be it further enacted, that they shall be entitled to receive, on their arrival in port, either in Great Britain or in India, on delivering at the post-office all such letters and packets which they shall have on board, the sum of 2*d.* for every letter or packet which he or they shall so deliver."

Allowance for letters to commanders.

Sect. 16. "That for the port and conveyance of all and every the letters and packets that shall be carried or conveyed by vessels not employed as packets from the Cape of Good Hope, the Mauritius, and the East Indies, to Great Britain, there shall be charged and payable a sea postage of 8*d.* for each single letter, and so in proportion for packets."

Rates of letters by vessels not employed as packets from India.

Sect. 17. Provided "that for twelve months from and after the passing of this act, no letter or packet of whatever weight or description coming from the Cape of Good Hope, Mauritius, or India, shall be chargeable with a higher rate of sea postage than 5*s.* for such letter or packet; any thing to the contrary in this act contained notwithstanding."

Rate of sea postage from India not to exceed 5*s.* for any packet.

Sect. 18. "That it shall and may be lawful to and for the postmaster-general, in his discretion, to establish post-offices, and appoint deputy postmasters, and other officers, for the due execution of this act, in the United King-

Post offices established.

55 Geo. 3, c. 153.

Postmaster retaining money.

Treasurers of company to remit money to postmaster-general.

President of board of commissioners free.

Secretary of state and secretaries to treasury, free.

Commissioners for affairs of India and secretary.

Chairman and deputy chairman of East-India Company, free.

Directors free from India by ships of company.

Public officers now free, to have same privilege to and from India.

Powers of 46 Geo. 3, c. 92, extended to act.

dom, and in any of the presidencies of the said united company, and the same from time to time to remove and displace, and others to appoint in their stead; and that all such persons so to be appointed shall give security to the satisfaction of the postmaster-general or his agents for the due discharge of their respective duties, and accounting for and paying unto the treasurers of the said united company, at their respective presidencies, on account of the revenue of the post-office, all sums which they shall respectively receive for the port of letters and packets, or in any other manner whatsoever; and that no such postmaster or other person shall at any time retain in his hands more than 1000*l.* of the public money."

Sect. 19. "That the treasurers of the said united company, at their respective presidencies, shall and they are hereby authorized and required to receive all such sums, and from time to time to remit the same to the postmaster-general, in such manner and under such regulations as shall be agreed upon by the said united company and the postmaster-general."

Sect. 20. "That it shall and may be lawful for the president of the board of commissioners for the affairs of India for the time being, to send and receive letters and packets to and from the East Indies free from the duties of postage; and that it shall be lawful for the secretary of state for colonial affairs, and the secretaries to the treasury for the time being, to send and receive letters and packets to and from the Cape of Good Hope, the Mauritius, and Ceylon, free from the duty of postage."

Sect. 21. "That it shall be lawful for the commissioners for the affairs of India, receiving salaries in virtue of such office, and for the secretary to the said commissioners for the time being, to send and receive letters and packets to or from any port or place within the limits of the charter of the East-India Company or the Cape of Good Hope, provided that the letters and packets so to be sent and received by such commissioners or secretary, by any one packet or other vessel, appointed to carry the mail, do not collectively exceed the weight of five ounces received, and five ounces sent, by each such commissioners, or by such secretary."

Sect. 22. "That it shall be lawful for the chairman and deputy chairman of the said united company for the time being, and for one year after the said chairman and deputy chairman shall have quitted their respective offices, to send and receive letters and packets free from postage, to and from the East Indies only; provided that such letters and packets shall be upon the concerns of the said company only, and provided that such letters shall be addressed or superscribed wholly in the handwriting of the chairman or deputy chairman, and his name added thereto in his handwriting; and also that it shall be lawful for the directors of the said company to send and receive letters and packets to and from the East Indies only, addressed and superscribed in like manner, free from postage, for one year from and after the passing of this act, and no longer."

Sect. 23. "That it shall be lawful for the directors of the said company for the time being, to send and receive letters and packets free from postage to and from the East Indies only, by the ships of the said company, provided that such letters so to be sent and received do not collectively exceed the weight of five ounces, by each ship of the said company; and that such directors shall and may continue to send and receive such letters and packets for one year after he or they shall have quitted the direction."

Sect. 24. Provided "that nothing in this act contained shall extend, or be construed to extend, to prevent such public officers who now send and receive letters and packets free of postage, from sending and receiving letters and packets to and from the Cape of Good Hope, Mauritius, St. Helena, and the East Indies, in the same manner as they are now authorized by law to send and receive letters and packets free from postage."

Sect. 26. "That all and every the clauses, powers, advantages, penalties, and methods for the recovery of the same, contained in the said recited act, so far as relates to soldiers and seamen's letters, shall be applied and extended, and shall be construed to apply and extend, to this present act, as fully and

effectually to all intents and purposes, as if the same had been particularly repeated and re-enacted in this present act." 55 Geo. 3, c. 152.

Sect. 28. "That it shall and may be lawful to and for the postmaster-general to demand, have, receive, and take for every letter which shall be brought by ships and vessels (other than packet-boats) from places within his majesty's dominions, and from any the kingdoms and places beyond the seas, into Great Britain, except from the Cape of Good Hope, the Mauritius, and the East Indies, a sea postage of 8d. for every single letter, and so in proportion for packets, in addition to any inland or internal postage which may arise upon the inland conveyance of such letters and packets; and for the encouragement of the masters of such ships or vessels, it shall be lawful for the postmaster-general to allow all such masters the sum of 2d. a letter or packet upon all such letters and packets as they respectively, on their arrival from parts beyond the seas, shall deliver unto the deputy or deputies of the postmaster-general, for such place or post town at which they shall touch or arrive."

Letters brought by vessels not packets (except from India, &c.), to pay 8d. for single letter, and masters of vessels allowed 2d.

Sect. 29. Provided "that if any master of any ship or vessel shall open any sealed bag, package, or parcel of letters, with which he shall have been entrusted, or shall take out of such bag, package, or parcel, any letter or letters whatsoever, or shall not duly deliver such bag, package, or parcel with the letters at the post-office on his arrival in port, without wilful or unavoidable delay after his arrival, every such master so offending shall forfeit and pay the sum of 200l."

Opening bags.

Sect. 30. "That it shall and may be lawful for the owners, charterers, or consignees of vessels, to send their letters on board their own ships, from any port in Great Britain to the Cape of Good Hope, the Mauritius, and the East Indies, free from the sea postage; provided that such letters shall be indorsed with the words 'owners or charterers or consignees' letter,' and the christian and surname and place of abode, of the owner, charterer, or consignee, or the firm of the owners who shall be the writer of the same; and provided that the letter so sent and indorsed by any owner or owners, charterer or consignee, or the whole number of letters, if there shall be more than one letter, from such owner or owners, charterer or consignee, shall not collectively exceed the weight of twenty ounces."

Penalty.

Owners may send letters on board their own vessels to India, &c. free from sea postage, on certain conditions.

Sect. 31. "That it shall and may be lawful for the owners or shippers of goods to send letters with their goods on board any ship or vessel from any port in Great Britain, to the Cape of Good Hope, the Mauritius, and the East Indies, free from the ship-letter postage; provided that such letter shall be indorsed with the christian and surname of the writer, or the firm of the writers, and with the words 'owners or shippers of goods' shipped on board the [state the name of the ship] bound to [state the place]; and provided the letter or packet of any such owners or shippers, or the whole number of letters, if there shall be more than one, from such owner or shippers, shall not collectively exceed the weight of six ounces."

Owners or shippers of goods may do same.

Sect. 32. "That it shall and may be lawful for the owners, charterers, or consignees of vessels resident in Great Britain, to receive their letters by their own vessels from any place within his majesty's dominions, or countries beyond the seas, free from the sea postage; provided that such owners, charterers, or consignees shall be described as such in the address and superscription of such letters; and that such letters to any one owner, charterer, or consignee, shall not, if coming from any place in the East Indies, exceed collectively the weight of twenty ounces; and if coming from any other part beyond the seas, exceed collectively the weight of six ounces."

Owners of vessels may receive letters in like manner,

Sect. 33. "That it shall and may be lawful for the owners or consignees of goods on board ships arriving from abroad to receive letters free from the sea postage by such ships, provided that such owners or consignees shall be described as such in the address and superscription thereof; and provided it shall appear by the ship's manifest that such persons actually have goods on board such ships, and that the letter or letters addressed to any one such owner or consignee shall not collectively exceed the weight of six ounces."

as also owners or consignees of goods.

Sect. 35. "That nothing in this, or in any other act contained, shall extend to charge with the duty of postage any letters or packets addressed by the

Letters from Governor of Ceylon, &c. to agents of their governments, not chargeable with postage.

55 Geo. 3, c. 183.

governors of his majesty's settlements of Ceylon, the Cape of Good Hope, or the Mauritius, or by the secretaries of these governments respectively, to the agents of those respective governments residing in England, or by such agents to such governors or secretaries: provided always, that the contents of such letters and packets relate *bond fide* to the public service, or concerns of such governments, and that they are superscribed by such governor, secretary, or agent respectively."

Owners' letters exceeding weight allowed, seized and carried to post-office.

Sect. 36. "That in case any collector, controller, or other officer of his majesty's customs, find any letter or letters superscribed as the letters of such owners, charterers, consignees, or shippers, exceeding the number or weight limited by this act, then it shall and may be lawful for such collector, controller, or other officer, to seize so many of the letters as shall reduce the remainder within the proper weight, and shall take the same to the nearest post-office, and the postmaster of the place shall pay to the officer delivering the same at the rate of 2s. 6d. for each letter or packet so seized."

Rates of postage for conveyance of letters received at post-office.

Sect. 37. "That the rates of postage for the conveyance of letters and packets by packet-boats, for ships or vessels employed as packet-boats, to any part of his majesty's dominions and countries beyond the seas, excepting the East Indies, shall and may, with the consent of the lords commissioners of his majesty's treasury, or any three of them, either be received at the post-office in Great Britain, upon forwarding the same, or by the deputy or deputies of the postmaster-general upon their delivery."

Commanders of vessels having letters on board to make following

Sect. 38. "That it shall be lawful for the collector, controller, or other officer of his majesty's customs, at any port or place whatsoever, and he is hereby authorized, to require a declaration from any commander of any ship or vessel sailing to the Cape of Good Hope, the Mauritius, or the East Indies, that he has not nor will take any letters on board his ship which have not been delivered to him by authority of the postmaster-general, or which are not exempted from postage by this act; which declaration shall be in the form or to the effect following:

Declaration.

"I, A. B., commander of the [state the name of the ship or vessel], bound to [state the place], do, as required by law, solemnly declare, that I have not, to the best of my knowledge and belief, on board my ship or vessel, nor will I take, any letters which have not been delivered to me by authority of the postmaster-general, or which are not exempted from postage."

Penalty.

"And in case any such commander shall make a false or untrue declaration, he shall, for every such offence, forfeit and pay the sum of 50l."

Bags of letters delivered on arrival.

Sect. 39. "That, on the arrival of any ship or vessel in any port where there is a post-office, or at the port of its destination, the master shall immediately send to the same all the bags, packages, or parcels of letters, and all other letters on board his ship, and shall, to the utmost of his power, procure all his crew and passengers to send any letters which may be in their possession, except such letters as are exempted by this act; and the master shall, at the same time, or at the port or place where the ship or vessel shall report, sign a declaration in the presence of the person authorized by the postmaster-general at the port or place, who shall also sign the same; which declaration shall be in the form or to the effect following; that is to say,

Declaration on delivery of letters.

"I, A. B., commander of the [state the name of the ship or vessel], arrived from [state the place], do, as required by law, solemnly declare, that I have, to the best of my knowledge and belief, delivered or caused to be delivered at the post-office at [state the place], every letter, bag, package, or parcel of letters that were on board the [state the name of the ship], except such letters as are exempted by this act."

"And that until such declaration shall be made and produced to the collector, controller, or principal officer of the customs, he or they shall not permit such ship or vessel to report."

Refusing to make declaration.

Sect. 40. "That if any master of any ship or vessel shall wilfully refuse or neglect to make the several declarations by this act required, or to produce the last-mentioned declaration, he shall forfeit and pay, for every such offence, the sum of 50l."

Penalty.

Sect. 41. "That if any collector, controller, or principal officer, hereby re-

Vessels sailing before regulations complied with.

quired to prohibit any ship or vessel reporting until the requisites of this act shall be complied with, shall permit such ship or vessel to report, such collector, controller, or officer, so permitting such ship or vessel to report, shall forfeit and pay the sum of 200*l*.”

Sect. 42. “That it shall and may be lawful to and for such collector, controller, or officer, at any port or place whatsoever, who, in the due execution of his duty as a revenue officer, shall discover any letters or packets on board any vessel in any port or place whatsoever, contrary to the provisions of this act, to seize and take all such letters and packets, and to forward the same to the postmaster-general or his deputy, at the port or place; and that the officer seizing and sending the same shall be entitled to one moiety of the penalty which may be recovered for any such offence; and that in all cases of such seizure the proof shall lie on the person in whose possession or baggage the letters or packets shall be found that the provisions of this act have been complied with.”

Sect. 43. “That in case any bags, packages, or parcels of letters shall be brought by any ship of war, the commander thereof shall cause the same, and all letters which may be on board (except the public despatches of government) to be immediately sent to the post-office, at the first port where he shall arrive; and such commander shall, for all such letters, be entitled to receive the same allowances as are payable to masters of ships or vessels.”

Sect. 44. “That in case it shall happen, from any unforeseen circumstances, that the master of any ship or vessel, or the commander of any ship of war, shall, upon delivering his bags, packages, or parcels of letters, be prevented from receiving the money to which he shall be entitled, such master or commander shall nevertheless be paid the same, by the order of the postmaster-general, at such other places as may be most convenient.”

Sect. 45. “That the rates of postage hereinbefore mentioned for the conveyance of letters and packets by the said packet-boats, ships, or vessels, from any port in Great Britain, to any port in the East Indies, shall be received by the deputies of the postmaster-general, upon their delivery in India, and that the rates of postage for the conveyance of letters from any port or place in the East Indies to Great Britain shall be received at the option of the parties sending the same, or upon their delivery in Great Britain or Ireland, by the deputies of the postmaster-general in India upon forwarding the same.”

Sect. 46. “That if, after the master of any vessel shall have delivered his letters at the post-office of any port at which he may touch, prior to his arriving at that port where the ship or vessel is to report, any letter or packet not exempted by this act, shall be found on board his vessel, in his possession, or in the possession of any of his crew, or any passenger on board, every such person knowingly having such letter or packet in his possession or in his baggage, shall forfeit and pay for every letter the sum of 5*l*.”

Sect. 47. “That if any person whatsoever shall falsely superscribe any letter as being the owner, charterer, or consignee of the vessel conveying the same, or the owner, shipper, or consignee of the goods shipped in the vessel, every such person or persons so offending shall, for every such offence, forfeit and pay the sum of 10*l*.”

Sect. 48. “That one moiety of the several pecuniary penalties hereby imposed shall be payable to the use of his majesty, his heirs, and successors, and the other moiety to any person who shall and will inform and sue for the same, to be recovered with full costs of suit, by action of debt, bill, plaint, or information, in any of his majesty's courts of record in Great Britain, or in the colony or place where the offence shall be committed, wherein no essoin, protection, or privilege, or wager of law shall be admitted.”

Sect. 49. “That if at any time hereafter † the establishment of such vessels as aforesaid, a space of three calendar months shall have elapsed without any public mail having been despatched from Great Britain to the Cape of Good Hope and the Mauritius, and the several presidencies of Fort William, Fort St. George, and Bombay, in the East Indies, it shall be lawful for any person to send, or take on board, and carry any letters or packets from Great Britain to such of the said places to which no mail shall have been so despatched during

55 Geo. 3, c. 153.

Penalty.

Officers to search packages.

Onus probandi.

Commanders of ships of war to send letters to post-office.

Money due to masters of vessels paid by postmaster-general.

Postage paid on delivery.

Having letters on board after delivery at post-office.

Penalty.

Falsely superscribing letters as being ship owners, &c.
Penalty.

Penalties, how recovered and applied.

† *See*. After establishment, if three months elapse without despatching public mail, any person may carry letters without being subject to penalties of act.

55 Geo. 3, c. 153.

the time aforesaid, or from such of the places aforesaid from which no mail shall have been so despatched to Great Britain, without being subject therefore to any of the penalties, forfeitures, payments, or restrictions in this act contained, until some public mail shall have been again despatched from Great Britain to such place, or from such place to Great Britain."

Not to extend to China letters.

Sect. 50. "That nothing in this act contained shall extend or be construed to extend to any letters or packets to or from China, but that they may be sent and carried as heretofore has been used; any thing to the contrary herein contained notwithstanding."

No penalties incurred unless establishment of mails carried into effect within six months.

Sect. 51. "That no person or persons shall incur or become liable to any of the penalties by this act imposed, so far as the same shall relate to letters to be sent to and from India, unless the provisions hereinbefore contained, as to establishing vessels for the conveyance of mails of letters to the East Indies, shall be carried into effect within six months from the passing of this act."

Actions brought for carrying letters contrary to

Sect. 52. "That in any action or suit against any person or persons, for collecting, carrying, conveying, delivering, or sending letters or packets contrary to the provisions in an act made in the ninth year of the reign of her late Majesty Queen Anne, intituled, 'An Act for establishing a General Post-Office for all her Majesty's Dominions, and for settling a Weekly Sum out of the Revenue thereof for the Service of the War, and other Her Majesty's Occasions,' or contrary to the provisions in an act made in the forty-second year of the reign of his present majesty, intituled, 'An Act for Amending so much of an Act, passed in the Seventh Year of the Reign of his Present Majesty, as relates to the Se- creting, Embezzling, or Destroying any Letter or Packet sent by the Post, and for the better Protection of such Letters and Packets, and for more effectually preventing Letters and Packets being sent otherwise than by the Post,' or in either of them, or contrary to the provisions of this act, the proof shall lie on the person or persons against whom such action or suit shall be brought, for delivering or sending letters or packets, that the same were delivered or sent according to the provisions contained in the said last-mentioned acts, or one of them, or according to the provisions contained in this present act."

9 Anne, c. 10.

42 Geo. 3, c. 81, or this act.

Sect. 53. "That the monies to arise by the several rates and duties as aforesaid, (except the monies which shall be necessary to defray such expenses as shall be incurred in the management and collection of the same,) shall be paid into the receipt of the exchequer at Westminster, and carried to and made part of the consolidated fund of Great Britain."

Onus probandi.

Application of rates.

Sect. 54. That if any action or suit shall be commenced against any person or persons, for any thing done in pursuance of this act, the same shall be commenced within twelve months after the fact committed, and not afterwards; and the defendant or defendants in such action or suit shall and may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act; and if it shall appear so to be done, or that such action or suit shall be commenced after the time before limited for bringing the same, that then the jury shall find for the defendant or defendants; and upon a verdict for the defendant, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit, after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for the same as any defendant or defendants hath or have in any other cases by law."

Limitation of actions.

General issue.

Treble costs.

59 Geo. 3, c. 111. Penalties incurred may be recovered.

By the 59 Geo. III. c. 111, s. 1, the 55 Geo. III. c. 153, s. 1, is repealed.

Sect. 2. Provided "that any penalty which shall have been incurred for any offence contrary to the provisions of the said recited act, previously to the passing of this act, shall and may be recovered and applied in the same manner, to all intents and purposes, as if the said recited act had not been repealed."

The following rates of postage to be paid.

Sect. 3. "That it shall and may be lawful for his majesty's postmaster-general to demand, have, receive, and take for every letter or packet which shall be brought into Great Britain by any ship or vessel arriving from Ceylon,

the Mauritius, or any port or place within the limits of the charter of the united company of merchants of England trading to the East Indies, or from the Cape of Good Hope, the rates following; that is to say, for every such letter or packet, a sea postage of 4d., provided the same shall not exceed the weight of three ounces. And for every letter or packet exceeding the weight of three ounces, a sea postage of 1s. per ounce, in addition to any inland or internal postage which may arise upon the inland conveyance of such letters and packets. And for the encouragement of the masters or commanders of such ships or vessels, it shall be lawful for the postmaster-general to allow to every such commander or master the sum of 2d. a letter or packet, upon all such letters and packets as he or they respectively, on their arrival from Ceylon, the Mauritius, or any port or place within the limits of the charter of the said united company, or from the Cape of Good Hope, shall deliver unto the deputy or deputies of the postmaster-general, according to the directions hereinafter contained."

50 Geo. 3, c. 111.

Rates for letters from India and the Cape of Good Hope.

Allowance to commanders, &c.

Sect. 4. "That it shall and may be lawful to and for his majesty's postmaster-general, and his deputy and deputies by him thereunto authorized, in his and their discretion, to collect and receive letters and packets of letters directed to Ceylon, the Mauritius, or any port or place within the limits of the said united company's charter, or to the Cape of Good Hope, and to forward the same by any ships or vessels that he in his discretion shall think fit; and also that it shall and may be lawful to and for his majesty's postmaster-general, and his deputy and deputies by him thereunto authorized, to and for the use of his majesty, his heirs and successors, to demand, have, receive, and take, for every letter or packet that shall be delivered to him, or to his deputy, for conveyance in manner hereinbefore specified, the rates following; that is to say, for every such letter a sea postage of 2d., provided the same shall not exceed the weight of three ounces. And for every letter or packet exceeding in weight three ounces, a sea postage at the rate of 1s. per ounce; any law, statute, usage, or custom to the contrary thereof notwithstanding."

Letters may be forwarded to India.

Rates for letters to India.

Sect. 5. "That it shall and may be lawful to and for his majesty's postmaster-general, and his deputy or deputies by him thereunto authorized, in his and their discretion, to receive newspapers or printed price currents, and also any printed paper liable to the stamp duties and duly stamped, for conveyance to such places as aforesaid; and also that it shall and may be lawful to and for his majesty's postmaster-general, and his deputy and deputies, to and for the use of his majesty, his heirs and successors, to demand, have, receive, and take, for the conveyance of the same, the sum of 1d. for each packet not exceeding one ounce, and for each packet exceeding one ounce, at the rate of 1d. per ounce; provided always, that the same be sent in covers open at the sides."

Rates for newspapers, &c.

Sect. 6. "That nothing herein contained shall be construed to oblige any person or persons to send any letters or packets of letters, or any newspapers, or printed prices current, or any other printed papers, to the East Indies, or to the islands of Ceylon or the Mauritius, or any port or place whatsoever within the limits of the charter of the said united company, or to the Cape of Good Hope, through his majesty's post-office, but that it shall be lawful for all persons to send letters and packets of letters, newspapers, printed prices current, and other printed papers to those places in any manner that they may find practicable and convenient."

Letters, &c., may be forwarded in any other manner than through the post-office.

Sect. 7. "That the commanders of all ships or vessels bound to Ceylon, the Mauritius, or any port or place within the limits of the charter of the said united company, or to the Cape of Good Hope, are hereby required to receive on board their respective ships any bag or bags of letters and packets which shall be tendered to them for conveyance as aforesaid by the postmaster-general, or his deputy and deputies, without receiving or being entitled to receive any remuneration for such conveyance."

Commanders of ships bound to East Indies required to take bags.

Sect. 8. "That in case any such commander shall refuse to receive on board his ship any such bag or bags of letters and packets, which shall be so tendered to him for conveyance as aforesaid, or having received on board any such bag or bags, shall wilfully neglect to deliver the same on his arrival at the

Refusing to receive, or neglecting to deliver.

Penalty, 200*l*.

59 Geo. 3, c. 111.

Court of directors and secret committee may receive and send letters, &c., as herein mentioned, free, &c.

Proviso.

And may receive same by company's ships, free.

So as to commissioners for India and chairman of company;

and as to public officers who now send and receive letters free.

Privilege of franking to secretary of board of control.

Letters from governor of Ceylon, &c., to agents of such governments, free.

Directors may receive certain letters free of sea postage; so may ex-directors for one year.

Owners of ships may receive letters by their own vessels free of sea postage.

port or place of his destination, then and in either of such cases, such commander shall forfeit and pay a penalty of 200*l*.

Sect. 9. "That it shall be lawful for the court of directors of the said united company, or the secret committee appointed by the said court, in pursuance of two acts passed in the thirty-third and fifty-third years of his present majesty's reign, to receive, free from all duty of postage, from the several governments in India, or from any agent or other officer of the said company, at any place within the limits of the charter of the said company, any letter or packet relating entirely to the affairs of the said company, and in like manner to send any such letters and packets addressed to such governments, agents, or other officers, free from all duty of postage; provided that all letters so sent be superscribed by the chairman or deputy chairman, or secretary or assistant secretary of the said company."

Sect. 10. "That it shall and may be lawful for the said court of directors, secret committee, and secretary or assistant secretary of the said united company, to receive from any officer or agent of the said company abroad any letters or packets entirely relating to the affairs of the said company by ships in the service of the said company, in the manner heretofore accustomed, without payment of any postage, and without subjecting any person to any penalty or forfeiture in respect thereof."

Sect. 11. "That it shall be lawful for the commissioners for the affairs of India, and for the chairman and deputy chairman of the said East-India company for the time being, to send and receive letters and packets to and from Ceylon, the Mauritius, or any port or place within the limits of the charter of the said company, or to and from the Cape of Good Hope, free from all duty of postage; provided that no such letter or packet exceed the weight of three ounces."

Sect. 12. Provided "that nothing in this act contained shall extend, or be construed to extend, to prevent such public officers as may now send and receive letters and packets free of postage, from sending and receiving letters and packets free from any postage directed to be paid by this act, in the same manner as they are now authorized by law to send and receive letters and packets free from postage."

Sect. 13. "That it shall and may be lawful for the secretary to the board of commissioners for the affairs of India for the time being, to send and receive letters and packets by the post free from the duty of postage, in the same manner and under such regulations and restrictions as the under secretaries to his majesty's principal secretaries of state are, by an act passed in the forty-second year of his present majesty's reign, or by any other act, or by this act, authorized to send and receive letters and packets free from postage."

Sect. 14. "That nothing in this or any other act contained shall extend to charge with the duty of postage any letters or packets addressed by the governors of his majesty's settlements of Ceylon, the Cape of Good Hope, or the Mauritius, or by the secretaries of such governments respectively, to the agents of those respective governments residing in England, or by such agents to such governors or secretaries; provided always, that the contents of such letters and packets relate *bona fide* to the public service or concerns of such governments, and such governor, secretary, or agent respectively superscribe the same."

Sect. 15. "That it shall be lawful for the directors of the said company for the time being, to receive letters and packets free from sea postage, from any port or place within the limits of the charter of the said united company, by ships in the service of the said company; provided that the letters and packets brought by any one such ship to be received by any such director, do not collectively exceed the weight of six ounces; and that such persons as shall have been directors may continue to receive such letters and packets free from postage for one year after they respectively shall have ceased to be directors."

Sect. 16. "That it shall be lawful for the owners, charterers, or consignees of vessels, resident in Great Britain, to receive their letters by their own vessels, from Ceylon, the Mauritius, or any port or place within the limits of the

charter of the said united company, or from the Cape of Good Hope, free from sea postage; provided that such owners, charterers, or consignees shall be described as such in the address and superscription of such letters, and that such letters brought by any one vessel to any one owner, charterer, or consignee, shall not collectively exceed the weight of twenty ounces."

59 Geo. 3, c. 111.

Proviso.

Sect. 17. "That it shall be lawful for the owners or consignees of goods on board ships arriving from Ceylon, the Mauritius, or any port or place within the charter of the said united company, or from the Cape of Good Hope, to receive letters free from the sea postage by such ships; provided that such owners or consignees shall be described as such in the address and superscription thereof; and provided it shall appear by the ship's manifest, that such persons actually have goods on board such ships; and that the letter or letters brought by any one such ship for any one such owner or consignee, shall not collectively exceed the weight of six ounces."

As also owners or consignees of goods.

Proviso.

Sect. 18. "That if any person whatsoever shall falsely superscribe any letter, as being the owner, charterer, or consignee of the vessel conveying the same, or the owner, shipper, or consignee of the goods shipped in the vessel, every such person or persons so offending shall for every such offence forfeit and pay the sum of 10*l*."

Falsely superscribing letters as ship-owners, &c.

Penalty, 10*l*.

Sect. 19. "That such owners, charterers, consignees, and shippers, may on the account of such ship obtain such letters as they respectively may be entitled to receive free of sea postage as aforesaid, from the master of such ship, before he shall make his delivery at the post-office in manner hereinafter directed; but nothing in this act shall entitle such owners or consignees to take away any letters whatever not within the limitation of weight and superscription."

Owners, &c., may obtain certain letters before delivery at post-office.

Sect. 20. "That in case any collector, controller, or other officer of his majesty's customs, shall find any letter or letters superscribed as the letters of such owners, charterers, consignees, or shippers, exceeding the weight limited by this act, then it shall be lawful for such collector, controller, or other officer, to seize so many of the letters as shall reduce the remainder within the proper weight, and he shall take the same to the nearest post-office; and the postmaster of the place shall pay to the officer delivering the same at the rate of 6*d*. for each letter or packet so seized."

Certain letters of owners, &c., seized and carried to post-office.

Sect. 21. "That on the arrival of any ship or vessel off the coast of Great Britain, the master shall cause all letters on board his ship (except such letters as may be obtained by such owners, charterers, consignees, and shippers as aforesaid, and except letters and packets exceeding the weight of three ounces) to be collected and inclosed in some bag, box, or other envelope, to be sealed with his seal, and to be addressed to any of his majesty's deputy postmasters in Great Britain, to be in readiness to send on shore by his own boat or by the pilot boat, or by any other safe and convenient opportunity, in order that the same may be delivered at the first regular post-office which can be communicated with, and be distributed from thence by the earliest inland posts; and shall likewise cause all letters and packets exceeding the weight of three ounces (except such as may be obtained by owners, charterers, consignees, and shippers as aforesaid), to be collected and inclosed in some bag, box, or other envelope, to be sealed and addressed as aforesaid, and shall deliver the same at the regular port or place where the ship or vessel shall report, and shall at such port or place sign a declaration in the presence of the person authorized by the postmaster-general at such port or place, who shall also sign the same; which declaration shall be in form or to the effect following; that is to say,

Masters of vessels, on arrival, to collect, inclose, and seal letters (exception), and deliver them at the first post-office, and also where ship reports, and sign the following declaration.

"I, A. B., commander of [state the name of the ship or vessel], arrived from [state the place], do, as required by law, solemnly declare, that I have, to the best of my knowledge and belief, delivered, or caused to be delivered, to the post-office, every letter, bag, package, or parcel of letters that were on board the [state the name of the ship], except such letters as are exempted by law."

"And that until such declaration shall be made and produced to the controller or principal officer of the customs, he or they shall not permit such ship or vessel to report."

Refusing, &c., to make declaration.

59 Geo. 3, c. 111.

Penalty, 50*l*.

Permitting ves-
sels to report,
until regulations
complied with.
Penalty, 50*l*.

Having letters on
board after de-
livery at post-
office, &c.

Penalty, 5*l*.

Revenue officers
to search pack-
ages.

Penalty, how
divided.

Breaking seals of
letters.

Penalty, 20*l*.

Commanders of
ships of war to
send letters to
post-office.

Allowance.

Money due to
masters of ves-
sels to be paid by
postmaster-gene-
ral.

Penalties, how to
be recovered and
applied.

In actions
brought for car-
rying letters con-
trary to the pro-
visions of 9 Anne,
c. 10, or 42 Geo.
3, c. 81, or of this
act, proof shall
lie on the de-
fendant.

Sect. 22. "That if any master of any ship or vessel shall willingly refuse or neglect to make or produce the said declaration, he shall forfeit and pay, for every such offence, the sum of 50*l*."

Sect. 23. "That if any collector, controller, or principal officer, hereby required to prohibit any ship or vessel reporting until the requisites of this act shall be complied with, shall permit such ship or vessel to report, such collector, controller, or officer, for permitting such ship or vessel to report, shall forfeit and pay the sum of 50*l*."

Sect. 24. "That if, after the master of any vessel shall have sent his letters to the post-office of any port at which he may touch, prior to his arriving at that port where the ship or vessel is to report, any letter or packet, not exempted by this act, shall be found on board his vessel, in his possession, or in the possession of any of his crew, or any passenger on board, every such person knowingly having such letter or packet in his possession, or in his baggage, shall forfeit and pay for every letter the sum of 5*l*."

Sect. 25. "That it shall be lawful for such collector, controller, or other officer, at any port or place whatsoever, who, in the due execution of his duty as a revenue officer, shall discover any letters or packets on board any vessel, in any port or place whatsoever, contrary to the provisions of this act, to seize and take all such letters and packets, and to forward the same to the postmaster-general, or his deputy, at the port or place; and that the officer seizing and sending the same shall be entitled to one moiety of the penalty which may be recovered for any such offence; and that, in all cases of such seizure, the proof that the provisions of this act have been complied with shall lie on the person in whose possession or baggage the letters or packets shall be found."

Sect. 26. "That if any person, to whom any letters may be entrusted by the master of any ship or vessel, sealed up in the manner required by this act, shall break the seal, or in any manner open the same, or shall not duly deliver the same without wilful or unavoidable delay, every person so offending shall forfeit and pay for every such offence the sum of 20*l*."

Sect. 27. "That in case any bags, packages, or parcels of letters shall be brought by any ship of war, the commander thereof shall cause the same, and all letters which may be on board (except the public despatches of government), to be immediately sent to the post-office at the first port where he shall arrive; and such commander shall, for all such letters, be entitled to receive the same allowances as are payable to the masters of other ships and vessels."

Sect. 28. "That in case it shall happen, from any unforeseen circumstances, that the master of any ship or vessel, or the commander of any ship of war, shall, upon delivering his bags, packages, or parcels of letters, be prevented from receiving the money to which he shall be entitled, such master or commander shall, nevertheless, be paid the same, by the order of the postmaster-general, at such other places as may be most convenient."

Sect. 29. "That one moiety of the several pecuniary penalties hereby imposed shall be payable to the use of his majesty, his heirs and successors, and the other moiety to any person who shall inform and sue for the same, to be recovered, with full costs of suit, by action of debt, bill, plaint, or information, in any of his majesty's courts of record in Great Britain, wherein no essoign, protection, or privilege, or wager of law, shall be admitted."

Sect. 30. "That in any action or suit against any person or persons for collecting, carrying, conveying, delivering, or sending letters or packets contrary to the provisions in an act made in the ninth year of the reign of her late majesty Queen Anne, intituled, 'An Act for establishing a General Post-Office for all her Majesty's Dominions, and for settling a Weekly Sum out of the Revenues thereof for the Service of the War, and other her Majesty's occasions;' or contrary to the provisions in an act made in the forty-second year of the reign of his present majesty, intituled, 'An Act for amending so much of an Act passed in the Seventh Year of the Reign of his present Majesty, as relates to the Secreting, Embezzling, or Destroying, any Letter or Packet sent by the Post, and for the better Protection of such Letters and Packets, and for more effectually preventing Letters and Packets being sent otherwise than by the Post;' or in either of them, or contrary to the provisions of this act, the

proof that the letters or packets were collected, carried, conveyed, delivered, or sent, according to the provisions contained in the said last-mentioned acts, or one of them, or according to the provisions contained in this present act (as the case may require), shall lie on the person or persons against whom such action or suit shall be brought for delivering or sending the same."

7 & 8 Geo. 4, c. 6.

Sect. 31. "That the monies to arise by the several rates and duties, as aforesaid (except the monies which shall be necessary to defray such expenses as shall be incurred in the management and collection of the same), shall be paid into the receipt of the exchequer at Westminster, and carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland."

Application of the rates.

Sect. 32. "That if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this act, the same shall be commenced within twelve months after the fact committed, and not afterwards; and the defendant or defendants in such action or suit shall and may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act; and if it shall appear so to be done, or that such action or suit shall be commenced after the time before limited for bringing the same, that then the jury shall find for the defendant or defendants; and, upon a verdict for the defendant, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for the same as any defendant or defendants hath or have in any other cases by law."

Limitation of actions.

General issue.

Treble costs.

Sect. 33. "Provided, that nothing in this act contained shall extend, or be construed to extend, to any letters or packets to or from China, but that they may be sent and carried as heretofore has been used; any thing to the contrary herein contained in any way notwithstanding."

Proviso for letters, &c. to or from China.

By the 7 & 8 Geo. IV. c. 6, s. 1, reciting, that "whereas, by an act passed in the fifth year of the reign of his present majesty, intituled 'An Act for granting to his Majesty, Rates of Postage on the Conveyance of Letters and Packets to and from Buenos Ayres, or any other Port or Ports on the Continent of South America,' reciting, that it might be expedient that packet-boats should be established to his majesty's colonies, and also to other foreign parts, where rates of postage had not hitherto been authorized, and that, at the time of establishing such packet-boats, Parliament might not be sitting, and no rates of postage could, in such case, be authorized by law for the port and conveyance of letters and packets by the same; it was therefore enacted, that from and after the establishment of any such packet-boats to any of his majesty's colonies, or other foreign parts, it should be lawful for his majesty's postmaster-general, and his deputy and deputies by him thereunto authorized, with the consent of the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three of them, for the use of his majesty, his heirs and successors, to demand, have, receive, and take, for the port and conveyance of all and every the letters and packets that should be carried or conveyed by such packet-boats which might hereafter be established, as hereinbefore mentioned, such rates of packet postage as should be equal in proportion to the rates by the now reciting act, made payable for the port or conveyance of letters and packets to and from Buenos Ayres, or any other port or ports on the continent of South America; and it was further enacted, that, as soon as conveniently might be after the next session of Parliament succeeding the establishment of such rates, as aforesaid, the receipt of such packet rates of postage as might then be judged necessary and expedient, should be by such session of Parliament authorized by law; and whereas, since the last session of Parliament, it hath been found expedient, for the convenience and improvement of trade and commerce, to establish packet-boats between the port of Falmouth, in this kingdom, and certain ports in the islands of St. Domingo and Cuba, in the West Indies, and such packet-boats have been established

7 & 8 Geo. 4, c. 6.

Rates of postage to be taken for the conveyance of letters or packets to or from St. Domingo.

accordingly; and whereas it is expedient that the rates of postage for the conveyance of letters and packets by packet-boats, between the several places aforesaid, be authorized by law: it is enacted, "that it shall and may be lawful to and for his majesty's postmaster-general, and his deputy and deputies by him thereunto authorized, for the use of his majesty, his heirs and successors, at any time after the passing of this act, to demand, have, receive, and take, for the port and conveyance of all and every the letters and packets that shall be carried or conveyed by packet-boats from or to the port of Falmouth aforesaid, or from or to any other convenient port in the United Kingdom of Great Britain and Ireland, to or from any port or ports in the Island of St. Domingo, in the West Indies (over and above all other rates payable for the conveyance of such letters and packets within the said United Kingdom), a packet postage according to the rates and sums, in sterling money, hereinafter mentioned (that is to say):

For every Single Letter	1s. 3d.
For every Double Letter	2 6
For every Treble Letter	3 9
And for every Ounce in Weight	5 0

And so in proportion for every packet or letter above the weight of an ounce.

Rates to or from Cuba.

And for the port and conveyance of all and every the letters and packets that shall be carried or conveyed by packet-boats from or to the said port of Falmouth, or from or to any other convenient port in the said United Kingdom, to or from any port or ports in the Island of Cuba, in the West Indies (over and above all other rates payable for the conveyance of such letters and packets within the said United Kingdom), a packet postage according to the rates and sums, in sterling money, hereinafter mentioned (that is to say):

For every Single Letter	2s. 1d.
For every Double Letter	4 2
For every Treble Letter	6 3
And for every Ounce in Weight	8 4

And so in proportion for every packet or letter above the weight of an ounce."

Rates to be paid when the letters are put into the post-office.

Sect. 2. "That the several rates of postage, chargeable and payable under and by virtue of this act, for the port of letters and packets from the said United Kingdom to St. Domingo or Cuba aforesaid, shall, in addition to and together with any inland rates to which such letters and packets may be liable, be paid on putting the same into the post-office of the town or place in Great Britain or Ireland, from whence any such letter is intended to be sent by the post."

Powers of acts relating to the post-office extended to this act.

Sect. 3. "That all and every the clauses, provisions, powers, privileges, advantages, disabilities, penalties, forfeitures, and distribution thereof, and all other matters and things contained in any act or acts of Parliament, in force at the time of the passing of this act, relating to the post-office, or any rates or duties payable on the port or conveyance of letters or packets, and not repealed or altered by this act, shall, so far as the same are applicable, continue in force, and be applied and extended, and shall be construed to apply and extend, to this present act, and to the rates and duties hereby granted, as fully and effectually, to all intents and purposes, as if the same had been particularly repeated and re-enacted in the body of this act."

(6.) Postage relating to Soldiers or Seamen.

Letters from private soldiers, seamen, &c.

By the 35 Geo. III. c. 53, s. 7, no single letter sent by the post from any non-commissioned officer, seaman, or private, employed in the navy, army, artillery, or marines, shall, whilst so employed on his majesty's service, be chargeable with a higher rate of postage than 1d. for the conveyance of each

letter; to be paid at the time of putting it into the post; provided that there be written upon the same, in the handwriting of and signed by the commanding officer for the time being, his name, and the ship, corps, regiment, or detachment to which such person belongs.

35 Geo. 3, c. 55.

Sect. 8. And no single letter sent to any such person, upon his own private concerns only, shall be charged with more than 1d. postage, to be paid upon delivery; but the same must be directed to such persons, and specify the ship, regiment, troop, corps, company, or detachment to which he belongs. And the deputy postmaster shall not deliver such letter to any person, except the person to whom the same shall be directed, or person appointed to receive the same by the commanding officer.

Or to such persons.

By the 41 Geo. III. (U. K.) c. 7, s. 10, and 45 Geo. III. c. 11, s. 3, nothing in these acts shall alter the rates affixed by the 35 Geo. III. c. 53, s. 7, 8.

41 Geo. 3, (U. K.) c. 7.

The additional rates of the 52 Geo. III. c. 88, not to increase or alter the amount or manner of charging the rates of postage (as regulated by the 35 Geo. III. c. 53,) upon single letters to be sent by the post by or to seamen or privates employed in his majesty's navy, army, militia, fencible regiments, artillery, or marines, upon their own private concerns only, whilst such seamen and privates shall be employed in the public service.

45 Geo. 3, c. 11.

By the 46 Geo. III. c. 92, (a) s. 5, the 8th section of the 35 Geo. III. c. 53,

(a) It having been found that the provisions of the statute for allowing soldiers to send and receive letters at a low rate of postage, were not yet perfectly understood, his late Royal Highness the Duke of York, the Commander-in-Chief, directed that the following instructions should be communicated to the army: as will appear in 3 *Burn, J.*, 24 ed. 769.

"*Letters from Soldiers.*—Upon all single letters sent from soldiers, the name of the soldier, his rank (whether sergeant, corporal, drummer, trumpeter, fifer, or private, and the regiment, corps, or detachment, to which he belongs), are to be superscribed; all such single letters to be indorsed by the officer in the actual command of the regiment, corps, or detachment; his name, rank, and the regiment, corps, or detachment commanded by him, are to be written in his own handwriting. It is to be understood, that this indulgence is limited to single letters only. One penny must be paid at the time the letter is put into the post-office, or such letter will be liable to the full rate of postage.

"The act of Parliament alluded to directs, that if any officer, having the command of a regiment, corps, or detachment, shall wilfully write his name on any letter which is not from a soldier, and upon private concerns only, such officer shall forfeit and pay the sum of 5*l.*; that a similar penalty shall attach to any person who shall obtain the signature of the officer commanding, to letters not on private concerns of soldiers; and further, that if any officer, not having at the time the command of

the regiment, corps, or detachment, shall write his name upon a soldier's letter, he shall forfeit the sum of 5*l.*

"*Letters to Soldiers.*—In all cases of single letters addressed to soldiers, the rank, whether sergeant, corporal, trumpeter, drummer, fifer, or private, and the regiment, corps, or detachment, to which they belong, must be specified. One penny is to be paid by the writer or other person, on putting the letter into a post-office; the letter will otherwise be liable to the full rate of postage. The letter cannot be delivered to any person except the soldier to whom such letter is directed, or to some one appointed to receive the same by an authority in writing under the hand of an officer having the command of the regiment, corps, or detachment, to which such soldier belongs.

"The commander-in-chief is desirous that soldiers shall have the full benefit intended by the legislature; but in order to guard against any abuse of privilege, his royal highness feels it necessary to repeat what was declared in the general orders of the 28th of February, 1814, and 14th of June, 1814, that the indulgence of the conveyance of letters to non-commissioned officers and soldiers, free of expense, is applicable exclusively to letters intended for the persons to whom they are addressed, and that no explanation which may be offered for an abuse of this privilege, which is attached exclusively to the said non-commissioned officers and soldiers, will be deemed satisfactory, or will in the least degree exculpate any officer who may directly or indirectly aid or connive at

46 Geo. 3, c. 92.

is repealed. And by s. 6 of that act, it is enacted, that seamen, whilst actually employed in his majesty's service, may send single letters on their own private concerns only, at the rate of 1*d.* each, to be paid upon putting them into the post-office. Provided that the name of the writer and his class and description in the vessel to which he shall belong shall be superscribed; and also in the handwriting of, and signed by the officer at the time commanding the vessel, his name, and that of the vessel.

And by s. 7, such seamen may receive such letters free of postage, provided that 1*d.* for each shall be paid upon putting the same into the post-office; and the name of the vessel to which they belong shall be superscribed; provided also that such letters shall be delivered only to the seamen to whom directed, or to persons appointed to receive them by writing under the hand of the commanding officer of the vessel; commissioned officers, or warrant officers, midshipmen, or masters' mates, not included in this section.

By s. 8 and 9, the same provisions are extended to every sergeant, corporal, drummer, trumpeter, fifer, and private soldier in his majesty's regular forces, militia, fencible regiments, artillery, or royal marines, within any part of his majesty's dominions.

Seamen and soldiers serving in East Indies, to have privilege of sending and receiving letters free, on certain conditions.

By the 55 Geo. III. c. 153, s. 25, it is enacted, "That from and after the passing of this act, it shall and may be lawful to and for each and every seaman employed in his majesty's navy within any part of the East Indies, and to and for every sergeant, corporal, drummer, trumpeter, fifer, and private soldier in his majesty's regular forces, militia, fencible regiments, artillery, or royal marines, whilst actually employed in his majesty's service in the East Indies, and also to and for every seaman, whilst actually employed in the service of the East-India Company, and to and for every sergeant, corporal, drummer, trumpeter, fifer, and private soldier in the service of the said company, whilst actually employed in the service of the said company, and not otherwise, to receive by the post, on his own private concerns only, free from postage, single letters; provided that the several regulations and restrictions contained in the said hereinbefore recited act shall be complied with; and likewise to send single letters by the post, on his own private concerns only, on payment of one penny upon putting the same into any post-office, under the several regulations and restrictions in the hereinbefore recited act contained."

46 Geo. 3, c. 92.

By the 46 Geo. III. c. 92, s. 10, s. 8 & 9 of that act are not to extend to commissioned officers or warrant officers.

Sect. 11. Any such commander wilfully and knowingly writing his name upon any letter that is not from such seaman, &c. shall forfeit 5*l.*

Sect. 12. A like penalty is imposed upon persons not being such commanders, writing their name upon any letter that it may be sent at a lower rate of postage than by law established.

Sect. 13. A like penalty is imposed upon those who knowingly address a letter to any such seaman, &c. which shall be intended for another person, or concerning the affairs of another person, for the purpose of evading legal postage.

Sect. 14. If any shall procure any such seaman, &c. to obtain the signature of his commanding officer to any letter to be sent by post which shall not be on the private concerns of such seaman, &c.: or if any such seaman, &c. shall himself obtain such signature upon any letter not from such seaman, &c., and upon his own private concerns only, in order to avoid the payment of legal postage, he shall forfeit 5*l.*

such deviation from the true intention and spirit in which this boon has been granted to soldiers, and that any non-commissioned officer or soldier who shall present to his officer a letter to be rendered free of postage, which is not his own, will be guilty of a fraud, for which it is his royal highness's ex-

press command that every offender shall be tried, and no alleviation of whatever punishment may be awarded must be expected.

"By command of his Royal Highness the Commander-in-Chief.

"HARRY CALVERT, Adjutant-General."
"Horse-Guards, 23th March, 1817."

Sect. 15. One moiety of the penalties imposed by this act to be to the use of his majesty, and the other to him who informs and sues, and may be recovered before one or more justices of the peace for the county, city, riding, town, or place, where the offence shall be committed, either upon the party's voluntary confession, or the oath of one witness (which oath the said justice of the peace may impose), and in default of payment the offender shall be committed to the house of correction for not exceeding one month, or until the penalty be sooner paid.

The 4 Geo. IV. c. 81, s. 73, reciting the 46 Geo. III. c. 92, s. 7, 9, and that it is expedient to extend its provisions to seamen in the navy and to non-commissioned officers and soldiers whilst actually employed in his majesty's service in the East Indies and at the Island of St. Helena, and also to the non-commissioned officers and soldiers actually employed in the service of the East-India Company, subject to such modifications as are hereinafter contained, enacts, "That from and after the passing of this act, it shall and may be lawful to and for every seaman employed in his majesty's navy, within any part of the East Indies, or at the Island of St. Helena, and to and for every sergeant, corporal, drummer, trumpeter, fifer, and private soldier, in his majesty's regular forces, militia, fencible regiments, artillery, or royal marines, whilst actually employed in his majesty's service in the East Indies, or at the Island of St. Helena; and also to and for every sergeant, corporal, drummer, trumpeter, fifer, and private soldier in the service of the said company, whilst actually employed in the service of the said company, and not otherwise, to receive single letters by the post, on his own private concerns only, free from all postage, except the sum of 1*d.* for each single letter, to be paid upon putting the same into any post-office in Great Britain or Ireland; provided that the several regulations and restrictions contained in the hereinbefore recited act shall have been complied with; and likewise to send by the post, on his own private concerns alone, single letters, upon payment, by the party receiving the same, of the sum of 2*d.* for the sea postage of each such letter, and of the aforesaid further sum of 1*d.* for the inland postage of each such letter, making in the whole the sum of 3*d.* for each such letter; provided that if any such letter shall be delivered into one of his majesty's post-offices in Great Britain or Ireland free of all expense to his majesty or the revenue of the post-office, such letter shall be chargeable with the inland postage of one penny as aforesaid, and to no other charge; provided also, that the several regulations and restrictions contained in the said hereinbefore recited act shall have been complied with."

Seamen employed in the navy in the East Indies or St. Helena, and non-commissioned officers and privates serving there, either in his majesty's forces or in East-India Company's service, may receive and send single letters free from postage.

Exception.

II. Exemption from Postage, and Franking by Members of Parliament.

The 24 Geo. III. sess. 2, c. 37, s. 7, and 42 Geo. III. c. 63, s. 2, enacts that no letter or packet shall be exempted from postage except such as shall be sent to or from the king; and such, not exceeding one ounce, are exempted from postage, as shall be sent by any member of the two houses of Parliament of the United Kingdom of Great Britain and Ireland during the sitting of Parliament, or within forty days before or after any summons or prorogation; and whereon the whole superscription shall be of the handwriting of the member directing the same, and shall have his name indorsed thereon, together with the name of the post town from which the same is intended to be sent, and the day, month, and year when put into the office, (the day of the month to be in words at length,) and the same shall be put into the office on the day of the date put upon such letter.

Letters sent to the king, or sent to or franked by members of Parliament.

By the 42 Geo. III. c. 63, s. 1, it is enacted, "That from and after the passing of this act, so long as the revenue arising in the general letter-office or post-office, or office of postmaster-general, shall continue to be carried to and made part of the consolidated fund of Great Britain, it shall and may be lawful

Members of Parliament may send daily by post, within the United Kingdom, ten letters, and re-

42 Geo. 3, c. 63.

ceive fifteen, not exceeding one ounce each, free from the duty of postage, on complying with certain regulations.

to and for each and every member of the two houses of Parliament of the United Kingdom of Great Britain and Ireland, to send by the post to places within the said kingdom, free from the duty of postage, during the sitting of any session of Parliament, or within forty days before or forty days after any summons or prorogation of the same, any number of letters and packets not exceeding ten letters or packets in any one day, so as none of such letters or packets shall exceed the weight of one ounce, and so as each of them be superscribed or directed in manner hereinafter mentioned; and also that it shall and may be lawful to and for each and every member of both houses of Parliament of the said United Kingdom, during the sitting of any session of Parliament, or within forty days before or forty days after any summons or prorogation of the same, to receive by the post, from places within the said United Kingdom, any number of letters and packets not exceeding fifteen letters or packets in any one day, so as each such letter and packet do not exceed the weight of one ounce, and be directed to the member at the place where he shall actually be at the time of the delivery thereof, or at his usual place of residence in London, or at the house of Parliament, or the lobby of the house of Parliament of which he shall be a member."

Superscription of letters sent shall be of the handwriting of the member, with the name of the post town and date, &c.

Sect. 2. "Provided that no letter or packet whatsoever, directed by any member of either of the two houses of Parliament of the said United Kingdom, shall be exempted from the payment of postage, unless the whole superscription upon every such letter or packet so sent shall be of the handwriting of the member directing the same, and shall have indorsed thereon the name of such member, together with the name of the post town from which the same is intended to be sent, and the day, month, and year when the same shall be to be put into the post-office; the day of the month to be in words at length, and the whole to be of the handwriting of the member; and also unless every such letter or packet shall be put into the general post-office, or other post-office, or into any receiving-house or place appointed by his majesty's postmaster general for the receipt of letters and packets, to be forwarded by the post on the day of the date put upon such letter or packet, and unless the member whose name shall be indorsed thereon shall actually be in the post town into the post-office of which every such letter or packet shall be put, or within twenty miles of such post town, on the day, or on the day before the day, on which such letter or packet shall be put into the post-office."

The surplus letters above the number permitted to pass free, shall be charged with the postage in manner herein directed.

Sect. 3. Provided, "that whenever the number of letters or packets, not weighing more than one ounce, each sent or received by any member of either of the two houses of Parliament of the said United Kingdom, in any one day, shall exceed the number hereinbefore permitted to pass free from the duty of postage, and the rates of postage on the said letters or packets respectively, or any of them, shall differ, then such of the said letters or packets as would be chargeable with an higher rate of postage than the remainder, shall be included in the number so exempted in preference to any which would be chargeable with a lower rate of postage; and the remainder of such letters or packets shall be chargeable with the several rates of postage respectively to which such letters or packets would by law be chargeable, and sent or received by any persons not entitled to send or receive letters or packets free from the duty of postage."

The treasury and admiralty, secretaries of state, clerks of privy council, secretary at war, &c. may send and receive, within the United Kingdom, letters and packets free from postage.

Sect. 4. "That it shall be lawful for the lord high treasurer or commissioners of the treasury, the secretaries to the treasury, the lord high admiral or commissioners of the admiralty, the secretaries of the admiralty, his majesty's principal secretaries of state, their under secretaries, the clerks of his majesty's most honourable privy council, his majesty's secretary at war, the deputy secretary at war, his majesty's postmaster-general, the secretary to such postmaster-general, the deputy of the postmaster-general for Scotland, his secretary, the surveyors of the post-office, the paymaster-general of the forces, the commander-in-chief, the secretary to the commander-in-chief, the adjutant-general of the forces, the controller of army accounts, all within Great Britain; his majesty's lieutenant-general or other chief governor or governors of Ireland, and his or their chief secretary, his or their secretary for the provinces of Ulster and Munster in Ireland, his or their secretary residing in Great Britain, the under secretary for the law department of the chief secretaries' office, the under

secretary and first clerk for the military department of the chief secretaries' office, the lord high treasurer or commissioners of the treasury, the secretary to the treasury, his majesty's postmaster-general, all within Ireland, and for the time being, to send and receive letters and packets by the post, free from the duty of postage, in the United Kingdom, in the same manner and under such restrictions as persons heretofore or now authorized to send or receive letters free from the duty of postage, either in Great Britain or Ireland respectively, do now send and receive letters free from the duty of postage."

43 Geo. 3, c. 62.

Sect. 5. "That it shall be lawful for the clerk of the Parliaments, the clerk assistant, and the reading clerk of the House of Peers of the said United Kingdom, and the clerk of the House of Commons, the deputy to the clerk of the House of Commons, the two clerks assistant of the House of Commons, and the chief clerk without doors of the House of Commons of the said United Kingdom (who receives the fees, and pays them to the officers of the said house), to send and receive letters and packets within the said United Kingdom, free from the duty of postage, in the same manner and under such restrictions as the clerk of the Parliaments and the clerk of the House of Commons are now authorized to send and receive the same within Great Britain."

And the clerk of Parliaments, and certain clerks of the Houses of Peers and Commons, may send and receive letters and packets in same manner;

Sect. 6. "That it shall and may be lawful to and for the treasurer or paymaster of the navy, and inspectors of seamen's wills, appointed under an act of Parliament made in the twenty-sixth year of the reign of his present majesty for the time being, to send and receive letters within the said United Kingdom, free from the duty of postage, in the same manner and under such restrictions as they were by law authorized, previous to the passing of an act made in the 35th year of the reign of his present majesty, intituled, 'An Act for further regulating the sending and receiving Letters free from the Duty of Postage, for allowing Non-Commissioned Officers, Seamen, and Private Men, in the Army and Navy, whilst on Service, to send and receive Letters at a low rate of Postage, and for permitting Patterns and Samples of Goods to be transmitted by the Post at an easier Rate than is now allowed by Law.'"

as may also the treasurer and paymaster of the navy and inspector of seamen's wills.

By the 46 Geo. III. c. 142, s. 6, the surveyor-general of his majesty's woods, &c. is also in like manner exempt from the duty of postage in respect to letters sent or received by him, as the officers mentioned in the 4 Geo. III. c. 24, and 42 Geo. III. c. 63.

By the 4 Geo. III. c. 24, s. 6, also clerks in the offices of the secretaries of state and post-office, being thereunto licensed by the secretaries or postmaster-general respectively, may continue to frank votes and newspapers as heretofore hath been used: provided the same be sent without covers, or in covers open at the sides.

By the 43 Geo. III. c. 119, s. 19, 20, the privilege of franking is extended to the accountant of Greenwich chest.

By the 42 Geo. III. c. 63, s. 8, it is enacted, "That it shall be lawful for his majesty's postmaster-general of Ireland for the time being to authorize, under his hand and seal, any persons, not exceeding two in number at one time, to send by the post letters and packets which shall concern the business of the post-office only, free from the duty of postage, so as such person, so to be authorized, do make and subscribe an indorsement upon each letter or packet, signifying that such letter or packet is upon his majesty's service, and to seal the same with the seal of office; which persons are hereby strictly forbid so to indorse and seal any letter or packet whatsoever, unless such only concerning which they shall receive the special direction of their superior officer, or which they shall themselves know to concern the business of their respective offices; and if any such person, so to be authorized, shall knowingly make and subscribe such indorsement, or procure the same to be made, upon any letter or packet which does not really concern the business of the office, in respect of which he is authorized to make the same, he shall, for the first offence, forfeit and pay the sum of 5*l.*, to be recovered and applied in such manner as by the act of the ninth year of the reign of Queen Anne, for establishing a general

Postmaster general of Ireland may authorize two persons to send letters and packets concerning the post-office, free from the duty of postage, &c.

42 Geo. 2, c. 68.

post-office, is directed with respect to penalties inflicted by the said act, and for the second offence, shall be dismissed from his office."

Persons entitled to send letters, &c. free, may, in case of bodily infirmity, authorise a person to write their name, &c. thereon, and on notice to the postmaster, such letters shall go free.

Members and clerks of both houses may send votes and newspapers free, in covers open at the sides, &c.

Persons heretofore authorized to send votes, &c., may continue to do so.

Packets so sent may be inspected at the post-office, and if found to conceal anything, &c., they shall be charged treble postage, &c.

Unstamped newspapers shall be sent to stamp-office.

Any person may send votes and newspapers by the post to Ireland, at the rate of 1d. for each; and newspapers from Ireland at the like rate, if left open at both ends.

Sect. 9. "That in case any person entitled to send any letters or packets free from the duty of postage, being, by bodily infirmity, disabled from writing the whole superscription of such letters or packets, shall choose to authorize and appoint some one person on his behalf, and in his stead, to sign his name upon, and write the superscription of such letters and packets, and shall cause notice thereof in writing, under his hand and seal, or under the hand and seal of any person authorized by him so to notify the same, such authority being to be certified and attested by the signature of any witnesses who shall have been present when such authority was given, and who shall subscribe such notice, to be transmitted to his majesty's postmaster-general, all such letters and packets so signed and superscribed by the person so authorized and appointed, shall be allowed to pass free of the duty of postage, and shall, in all respects, be proceeded with, as if the whole superscription had been of the handwriting of the person by whom such authority was given as aforesaid."

Sect. 10. "That it shall be lawful for every member of both houses of Parliament of the United Kingdom, and the said respective clerks of the two houses of Parliament hereinbefore mentioned, to send by the post, within the said United Kingdom, any printed votes, proceedings in Parliament, or printed newspapers, free from the duty of postage, so as the same be sent without covers, or in covers open at the sides, which shall be signed on the outside thereof by the hand of any member of Parliament, or either of the said respective clerks, in such manner as hath been heretofore practised; and also that it shall and may be lawful to and for each and every member of both the said two houses of Parliament, and for each and every of the said respective clerks, to authorize printed votes, proceedings in Parliament, and printed newspapers, to be sent by the post, free from the duty of postage, addressed to him at such place and places within the said United Kingdom as he shall have previously given notice in writing, to the postmaster-general, either at London or Dublin."

Sect. 11. "That the several persons who, by virtue of any act or acts of Parliament passed in the Parliament of Great Britain, or in the Parliament of Ireland, and now in force, are authorized, in respect of their offices, to send votes, proceedings in Parliament, and printed newspapers, free from the duty of postage, shall and may send the same within the United Kingdom, in such and the like manner as they have heretofore been accustomed to do."

Sect. 12. "That it shall be lawful for his majesty's postmaster-general in England and Ireland respectively, or any of the officers employed under him or them respectively, to examine and search any packet sent without a cover, or in a cover open at the sides, in order to discover whether any other paper or thing whatsoever be inclosed or concealed in or with such printed paper, as is hereby permitted to be sent free of postage without a cover, or in a cover open at the sides, and in order to discover whether such printed newspaper shall have been duly stamped; and in case any such other paper or thing whatsoever shall be found to be inclosed or concealed in or with such printed paper as aforesaid, or in case there shall be any writing other than the superscription upon such printed paper, or upon the cover containing the same, the whole of such packet shall be charged with treble the duty of postage; and in case any such newspaper shall appear not to have been duly stamped, every such officer is hereby required to stop the same, and send it to the commissioners of the stamp duties, either at London or Dublin, as the case may be."

Sect. 13. "That it shall be lawful for any person whatsoever to send any printed votes, proceedings in Parliament, and printed newspapers, by the post, to Ireland, at the rate of one penny only for the carriage of each printed vote and proceeding in Parliament, and each printed newspaper, and also for any person whatsoever to send any printed newspaper by the post from Ireland to England and Scotland, at the rate of one penny only for the carriage of each printed newspaper; such printed votes, proceedings, and printed newspapers, when so sent, to be open at both ends; the said sum of one penny to be paid when the said printed votes, proceedings in Parliament, and printed newspapers, shall be put into the post-office; which printed votes, proceedings in

Parliament, and printed newspapers shall, on such payment as aforesaid, be marked post paid, and the money received thereon in Great Britain, shall be carried to the revenue of the post-office of Great Britain, and the money received thereon in Ireland, shall be carried to the revenue of the post-office of Ireland."

44 Geo. 3, c. 64.

By the 54 Geo. III. c. 169, s. 17, it shall be lawful for every member of either house of Parliament, to receive by the post any petition addressed to either house of Parliament free from the duty of postage, so as the same be sent in a cover open at the sides, and that the same shall not exceed the weight of six ounces.

Members to receive petitions to Parliament free from postage.

By the 44 Geo. III. c. 84, s. 1, reciting the 42 Geo. III. c. 63, that "whereas an act was made in the forty-second year of the reign of his present majesty, intitled, 'An Act to authorize the Sending and Receiving of Letters and Packets, Votes, Proceedings in Parliament, and Printed Newspapers, by the Post, free from the Duty of Postage, by the Members of the Two Houses of Parliament of the United Kingdom, and by certain Public Officers therein named, and for Reducing the Postage on such Votes, Proceedings, and Newspapers, when sent by any other Person;' and whereas the privilege of sending and receiving letters and packets free from the duty of postage is not by the said act extended to the master-general of his majesty's ordnance, to either of the secretaries of the said master-general, to the secretary to the board of ordnance, to the inspector-general of fortifications, or to the quarter-master-general of his majesty's forces, who, by virtue of their respective offices, necessarily send and receive many letters and packets relating to the public concerns of this kingdom:" it is enacted, "that, from and after the passing of this act, the master-general of his majesty's ordnance, one of the secretaries to the said master-general, the secretary to the board of ordnance, the inspector-general of fortifications, and the quarter-master-general of his majesty's forces, all for the time being, shall and may send and receive letters and packets free from the duty of postage, in the same manner and under such restrictions as the commander-in-chief of his majesty's forces for the time being, and other officers of his majesty's forces, therein specified, are thereby permitted, in respect of their offices, to send and receive letters and packets free from the duty of postage."

Master-general of the ordnance, &c., may send and receive letters free from postage, as under 44 Geo. 3, c. 63, s. 4.

Sec. 2. "That it shall and may be lawful to and for the lieutenant-general and principal officers of his majesty's ordnance to authorize and direct certain persons, not exceeding two in number, in their office or department; and to and for the adjutant-general of his majesty's forces for the time being to authorize and direct certain persons, not exceeding two in number, in his office or department; and to and for the said quarter-master-general of his majesty's forces for the time being, to authorize and direct certain persons, not exceeding two in number, in his office or department; and to and for the barrack-master-general of his majesty's forces for the time being, to authorize and direct one person in his office or department, (a list of whose names shall from time to time be transmitted to the general post-offices in London and Dublin,) severally and respectively to make and subscribe an indorsement upon letters and packets, to be sent by the post free from their respective offices, which shall concern the public business of such offices or departments, signifying that such letters and packets are upon his majesty's service, which letters and packets, being so subscribed and sealed with the respective seals of the said lieutenant-general and principal officers of his majesty's ordnance for the time being, the said adjutant-general for the time being, the said quarter-master-general for the time being, and the said barrack-master-general for the time being respectively, shall and may be sent and conveyed by the post free from the duty of postage."

Ordnance, adjutant-general, quarter-master general, and barrack-master general, may appoint certain persons to indorse letters and packets to be sent free from their offices, &c.

Sec. 3. "That if any person authorized to make and subscribe such indorsement shall knowingly make the same, or procure the same to be made, upon any letter or packet which does not really concern the business of the office or department to which he shall belong, such person shall, for the first offence, forfeit and pay the sum of 50*l.*, to be recovered and applied in such manner as by the act of the ninth year of the reign of Queen Anne, for establishing a general post-office, is directed with respect to the penalties inflicted

Penalty for making indorsement on letters not concerning the business of the office.

9 Anne, c. 10.

44 Geo. 3. c. 84.

by the said act; and for the second offence, shall be dismissed from his office."

Certain public officers authorized to send and receive letters and packets free from postage.

By the 46 Geo. III. c. 61, s. 1, it is enacted, "That from and after the passing of this act, it shall be lawful for the lord high chancellor of Great Britain, the speaker of the house of commons, the first lord commissioner of his majesty's treasury in Great Britain, the first lord commissioner of the Admiralty, the chancellor of his majesty's exchequer in Great Britain, the chancellor of his majesty's exchequer in that part of the United Kingdom called Ireland, the president of the committee of council appointed for the consideration of matters relating to trade and foreign plantations, and the assistant secretary to the treasury in Great Britain, all for the time being, to send and receive letters and packets by the post, free from the duty of postage, within the United Kingdom, in the same manner, and under such restrictions as the several public officers are authorized by the laws now in force to send and receive letters and packets free from postage."

Treasury may authorize certain officers to send letters free from postage, without the name of the post-town, &c.

Sec. 2. "That it shall be lawful for the lords commissioners of the treasury for the time being, for the convenience of public business, by writing under their hands, to authorize that letters and packets directed by his majesty's postmaster-general, the secretary to the postmaster-general, the secretaries to the treasury, and the assistant secretary to the treasury in Great Britain respectively for the time being, shall and may be sent by the post, free from postage, without the name of the post town, and the date of the day, month, and year, when sent, being superscribed thereon; any law to the contrary notwithstanding."

Letters and packets addressed to the commissioners of public accounts, or to the commissioners for barracks, or sent by the secretary to either board, shall be free of postage.

And by the 48 Geo. III. c. 90, "that all letters and packets addressed to the commissioners for auditing the public accounts, and that all letters and packets addressed to the commissioners for the affairs of barracks respectively for the time being, upon any business or affairs relating to the duties of the offices of the said commissioners respectively, shall be free from the duty of postage; and also that all letters and packets sent by the secretary of the commissioners for auditing public accounts, or by the secretary of the commissioners for the affairs of barracks respectively, or in the absence of such secretaries respectively, then by the chief clerk of such secretary for the time being, upon any business or affairs relating to the duties of the said commissioners respectively in manner and form hereinafter directed, shall be sent free from the said duty of postage; and all letters and packets relating to the duties of the said commissioners respectively, which shall be forwarded by the said respective secretaries or their chief clerks respectively as aforesaid, shall be under covers, with the words 'Pursuant to Act of Parliament,' and 'Auditor's Office,' if sent from the office of the commissioners for auditing the public accounts, and 'Barrack Office,' if sent from the office of the commissioners for the affairs of barracks, printed upon the same; and the secretary, or some chief clerk in the office from which such letters and packets shall be sent, to be nominated from time to time for that purpose by such commissioners, or the major part of them respectively, in and for each of such offices, and whose appointment for that purpose shall be transmitted to the post-office, shall write his name under the same, and they and each of them are and is hereby strictly prohibited from inclosing or sending under such covers any writing, paper, or parcel whatsoever, excepting such as relate to the duties of the said commissioners respectively."

Penalties on secretaries, &c., for sending any thing under cover not relating to the board, 100*l*.

Sec. 2. "That if any such secretary or clerk as aforesaid respectively shall presume to send or convey under any of the covers aforesaid, any writing, paper, or parcel other than those relating to the duties of such commissioners respectively, he shall for every such offence forfeit and pay the sum of 100*l*., to be recovered with full costs of suit by any person or persons, by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, wherein no essoin, privilege, protection, wager of law, or more than one imparlance shall be allowed; one moiety of which penalty shall go to the person who shall sue for the same, and the other moiety thereof to and for the use of his majesty."

By the 50 Geo. III. c. 86, the judge-advocate general, for the time being, may send and receive letters and packets free from the duty of postage, in such manner and under such restrictions as are specified or imposed in relation to other public offices, in and by the 42 Geo. III. c. 63. Judge-advocate general.

By the 53 Geo. III. c. 13, the assistant secretary of the postmaster-general is permitted to frank. Assistant secretary of postmaster-general.

By the 5 Geo. IV. c. 20, s. 11, from and after the passing of this act [April 12, 1824], the president, or first-named commissioner appointed by or in pursuance of the 1 & 2 Geo. IV. c. 90, may send and receive letters and packets by the post free from the duty of postage, within the United Kingdom, under the restrictions specified in the 46 Geo. III. c. 61.

By the 42 Geo. III. c. 63, s. 14, it is enacted, "that if any person whatsoever shall, from and after the 1st day of July, 1802, forge or counterfeit the handwriting of any person whatsoever in the superscription of any letter or packet to be sent by the post, in order to avoid the payment of the duty of postage, or shall forge, counterfeit, or alter, or shall procure to be forged, counterfeited, or altered, the date upon the superscription of any such letter or packet, or shall write and send by the post, or cause to be written and sent by the post, any letter or packet, the superscription or cover whereof shall be forged or counterfeited, or the date upon such superscription or cover altered, in order to avoid the payment of the duty of postage, knowing the same to be forged, counterfeited, or altered, every person so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony, and shall be transported for seven years." See *Forgery*, Vol. II.

Forging the handwriting of any person, in the superscription of any letter or packet, or altering the date thereof, to avoid the payment of postage, &c., deemed felony.

See also the 24 Geo. III. sess. 2, c. 37, s. 9, Vol. II.

Postponement. See *post*, *Traverse*; *Trial*. *Appeal*, Vol. I. p. 150. *Conviction*, Vol. I.

Pound Breach. See *Distress*, Vol. I. *Prison-Breaking*, *post*.

Powder for the Hair. See *Taxes*, *post*.

Præmunire.

[27 Ed. 3, c. 1; 16 R. 2, c. 5; 5 El. c. 1.]

PRÆMUNIRE is so called from a word in the writ, *præmunire facias præfatum A. B. quod tunc sit coram nobis, &c.*, where *præmunire* is used for *præmonere*, to warn the person to appear, as is directed in the 27 Edw. III. c. 1, hereafter following. 1 *Inst.* 129. What it is.

Notwithstanding that *præmunire* is not within the letter of the commission of the peace, yet inasmuch as it is against the peace of the king and of the realm, any justice of the peace may, either on his own knowledge, or the complaint of others, cause any person to be apprehended for such offence, and may take the examination of the person so apprehended, and the information of all who Power of justices of the peace.

can give material evidence against him, and put the same in writing, and bind over the witnesses to the King's Bench, or gaol delivery; and certify his proceedings to the same court to which he shall bind over such informers. 2 *Haw.* c. 8, s. 34; *Hale's Sum.* 168.

27 Geo. 3, c. 1.
Impeaching judgments in the king's court, a *premunire*.

By the 27 Edw. III. c. 1, called the Statute of Provisors, they who shall draw any out of the realm in plea whereof the cognizance pertaineth to the king's court, or which do sue in any other court, to defeat or impeach the judgments given in the king's court, shall have a day, containing the space of two months, by warning to be made to them, by the sheriffs or other officers, to appear to answer in their proper persons for the contempt; and if they come not at the said day, in their proper person, to be at law, they, their procurators, attorneys, executors, notaries, and maintainers, shall from that day forth be put out of the king's protection, and their lands, goods, and chattels forfeit to the king, and their bodies, wheresoever they may be found, shall be taken and imprisoned, and ransomed at the king's will. And upon the same a writ shall be made, to take their bodies, and to seize their lands, goods, and possessions, into the king's hands. And if it be returned that they be not found, they shall be put in exigent, and outlawed.

Suing out foreign process, a *premunire*.

And by the 16 Rich. II. c. 5, commonly called the Statute of *Premunire*, and to which the several subsequent statutes do refer, both those who pursue, or cause to be pursued, in the court of Rome, or elsewhere, any processes or instruments, or other things whatsoever, which touch the king, against him, his crown and regality, or his realm, and also those who shall bring, receive, notify, or execute them, and their faulters, and abettors, shall be out of the king's protection; and their lands and tenements, goods and chattels, forfeit to the king; and they shall be attached by their bodies, if they may be found, and brought before the king and his council, there to answer; or process shall be made against them by *premunire facias*, in manner as it is ordained in other statutes of provisors.

And in these two statutes, as above recited, are contained the pains and penalties of what is called the *premunire*. They were intended chiefly to oppose the papal encroachments in this realm; but the penalties thereof, by several subsequent statutes, are extended to other cases, which have no relation to popery.

Persons guilty of a *premunire*, might formerly have been killed.

Out of the King's Protection—So odious was this offence formerly, that a man who was attainted on the same might have been slain by any one without danger of law; because it was provided by law, that a man might do to him as to the king's enemy, and a man may lawfully kill an enemy; and therefore by the 5 Eliz. c. 1, it is enacted, that it shall not be lawful for any one to slay any person attainted in or upon a *premunire*. 1 *Inst.* 130.

Are disabled to bring an action.

But he is so far out of the king's protection, that he is disabled to bring an action for any injury whatsoever. And no one knowing him guilty, can with safety give him aid, comfort, or relief. *Inst.* 129, 130; 1 *Hawk.* c. 19, s. 47.

Whether he may demand sureties.

And Mr. *Hawkins* says it has been questioned, whether he hath a right to demand surety of the peace. But *Lambard* and *Dalton*, which are the authorities he cites for it, incline to think that he hath such right. *Lambard* alleges for it the 5 Eliz. above mentioned; and *Dalton* asserts it without doubting. *Lamb.* 80; *Dalt.* 272; 1 *Haw.* c. 60, s. 3.

Lands and tenements.

Lands and Tenements, forfeited—Yet tenant in tail shall only forfeit lands during life; for albeit the statute enacteth that lands and tenements shall be forfeited, that must be understood of such an estate as he may lawfully forfeit, and that is during his own life. 1 *Inst.* 130.

Corruption of blood.

Attainder in *premunire* worketh no corruption of blood. *Inst.* 391.

Prosecutions, however, for a *premunire* are unheard of in our courts. The only instance of one to be found is in the *State Trials*; where the penalties of a *premunire* were inflicted on some persons for refusing to take the oath of allegiance in the reign of Char. II. See 6 *Howell's St. Tr.* 201, 210.

Presentment.

[7 & 8 Geo. 4, c. 38.]

A PRESENTMENT may be that which the grand jury find and present to the court, without any indictment delivered to them; which is afterwards reduced into the form of an indictment, and in nothing else differs from an indictment. By grand jury.

The presentment is drawn up in English by the jury, in a short note, for instructions to draw the indictment by; upon which the officer of the court must afterwards frame an indictment, before the party presented can be put to answer it; and it differs from an indictment, in that an indictment is drawn up at large, and brought engrossed to the grand jury to find. 2 *Lill. Abr.* 353; 2 *Inst.* 739.

The grand jury may present any offence within their own knowledge, without a bill being sent before them at the instance of an individual prosecutor, if the offence be one of which they can legally take cognizance. 2 *Hawk. c. 2, s. 51.*

Justices of the peace are frequently empowered to make presentments, as by the "General Highway Act," 13 Geo. III. c. 78, s. 24, for which, and observations thereon, see *Highways*, Vol. III., p. 77, and the form of presentment provided by that act. *Id.* p. 110. By justices of the peace.

When a presentment is regularly made, the form of it, in describing the subject matter of the offence, is the same as in an indictment, for which see *Indictment*, Vol. III. Form of presentment.

There are other presentments of churchwardens, constables, and surveyors of the highways; all which may be seen under their proper titles. By constables, &c.

It seems from the cases of *R. v. Bridgwater and Taunton Canal Company*, 7 B. & Cres. 514, 1 M. & R. M. C. 81, S. C.; that presentments of constables are of no validity, unless the constable goes before the grand jury, and makes oath to the truth of the facts he presents.

Much annoyance and expense having arisen from presentments by constables, the 7 & 8 Geo. IV. c. 38, was passed, whereby, after reciting that "in some parts of England the petty constables of the several parishes have, from a very remote period, been required to appear at a petty session held previously to every general gaol delivery and quarter session for the county in which such parishes are situate, and to make and sign before the justice or justices of the peace attending such petty session certain presentments of various indictable and other offences: and whereas the said presentments are attended with considerable expense and loss of time, and have, in consequence of modern legislative provisions, become useless and improper;" it is enacted, "that from and after the passing of this act, no petty constable shall be required at any petty session or elsewhere to make, nor shall any high constable be required at any general gaol delivery, great session, or general or quarter session of the peace in England, to deliver any presentment respecting popish recusants, persons absenting themselves from their parish church or any other place of religious worship licensed by authority, rogues and vagabonds, inmates, retailers of brandy, ingrossers, forestallers, regraters, profane swearers and cursers, servants out of service, felonies and robberies, unlicensed or disorderly ale-houses, false weights and measures, highways and bridges, riots, routs, and unlawful assemblies, and whether the poor are well provided for, and the constables are legally chosen and sworn." No constable shall be required to make presentments respecting the offences herein mentioned

The following is a form of presentment by a grand jury:—

"—shire } "Be it remembered that, at a general quarter session of the peace of our
to wit. } Lord the King, holden at _____, for the said county, on the _____
day of _____, in the said year of the reign of, &c., before A. B. and C. D.,
Esqrs., and the Rev. P. Q., clerk, and others their companions, justices of our said
lord the king, assigned, &c., it is presented by the oath of M. N., O. P., Q. R., &c.
[the names of the grand jurors], good and lawful men of the said county, then and

Presentment by a grand jury.

Præmunire.

27 Geo. 3, c. 1.
Impeaching judgments in the king's court, a præmunire.

can give material evidence against him, and put over the witnesses to the King's Bench, or go to the same court to which he shall be sent, &c. [state the offence, and] c. 8, s. 34; *Hale's Sum.* 168.

By the 27 Edw. III. c. 1, called the Statute of the peace, *Highways*, Vol. III. p. 110.

any out of the realm in plea where court, or which do sue in any given in the king's court, shall by warning to be made to answer in their proper persons said day, in their proper persons, executors, notaries of the king's proper and their bodies, soned, and ran made, to take into the king be put in And and or in

Suing out foreign process, a præmunire.

the Impressment, Vol. III.

See Evidence, Vol. II. p. 22, 28.

See Indictment, Vol. III. *Evidence*, Vol. II. p. 22.

See Cheat, Vol. I.

Printers.

[38 Geo. 3, c. 78; 39 Geo. 3, c. 79; 51 Geo. 3, c. 65.]

THE 38 Geo. III. c. 78, contains a variety of regulations as to the printing and publishing of newspapers and papers of the like kind, and for which see *Newspapers*, Vol. III.

Persons of every rank shall give a notice, in the form to the printed subscription, to the clerk of the peace, who shall grant a certificate, and file the notice, and transmit an attested copy to the secretary of state.

By the 39 Geo. III. c. 79, s. 23, intituled, "An Act for the more effectual Suppression of Societies established for Seditious and Treasonable Purposes; and for better preventing Treasonable and Seditious Practices," after reciting "Whereas many societies, established of late years for treasonable and seditious purposes, and especially the said societies of 'United Englishmen,' 'United Scotsmen,' 'United Irishmen,' and 'United Britons,' and the said society called the 'London Corresponding Society,' and other corresponding societies, have at various times caused to be published, in great quantities, divers printed papers of an irreligious, treasonable, and seditious nature, tending to revile our holy religion, and to bring the profession and worship thereof into contempt among the ignorant, and also to excite hatred and contempt of his majesty's royal person, government, and laws, and of the happy constitution of these realms, as by law established, and utterly to eradicate all principles of religion and morality; and such societies have dispersed such printed papers among the lower classes of the community, either gratis, or at very low prices, and with an activity and profusion beyond all former example: and whereas all persons printing or publishing any papers or writings are by law answerable for the contents thereof, but such responsibility hath of late been in a great degree eluded by the secret printing and publication of such seditious, immoral, and irreligious papers or writings as aforesaid, and it is therefore highly important to the public peace that it should in future be known by whom any such papers shall be printed;" it is enacted "that, from and after the expiration of forty days from the day of passing this act, every person having any printing-press, or types for printing, shall cause &c.

in the presence of, and attested by one witness, to be of the peace acting for the county, stewardry, riding, town, or place, where the same shall be intended to be put to the form practised in the schedule hereunto annexed, or deputy respectively, shall, and he is authorized to grant a certificate (b) in the form prescribed in the schedule, which such clerk of the peace, or deputy, shall, and no more, and such clerk of the peace, shall, and transmit an attested copy thereof to the secretaries of state; and every person who, not being a clerk of the peace, and obtained such certificate as aforesaid, shall, within the space of forty days next after the passing of this act, or having delivered such certificate as aforesaid, shall use any printing-press for printing, in any other place than the place expressed in such certificate, shall forfeit and lose the sum of 20*l*."

Sect. 24. "That nothing herein contained shall extend to his majesty's printers for England and Scotland, or to the public presses belonging to the Universities of Oxford and Cambridge respectively."

Sect. 25. "That, from and after the expiration of forty days after the passing of this act, every person carrying on the business of a letter-founder, or maker or seller of types for printing, or of printing-presses, shall cause notice of his or her intention to carry on such business to be delivered to the clerk of the peace of the county, stewardry, riding, division, city, borough, town, or place, where such person shall propose to carry on such business, or his deputy, in the form prescribed in the schedule to this act annexed (c); and such clerk of the peace, or his deputy, shall, and he is hereby authorized and required thereupon to grant a certificate in the form (d) also prescribed in the said schedule, for which such clerk of the peace, or his deputy, shall receive a fee of 1*s*. and no more, and shall file such notice, and transmit an attested copy thereof to one of his majesty's principal secretaries of state; and every person who shall, after the expiration of the said forty days, carry on such business, or make or sell any type for printing, or printing-press, without having given such notice, and obtained such certificate, shall forfeit and lose the sum of 20*l*."

Sect. 26. "That every person who shall sell types for printing, or printing-presses, as aforesaid, shall keep a fair account in writing, of all persons to whom any such types or presses shall be sold, and shall produce such accounts to any justice of the peace who shall require the same; and if such person shall neglect to keep such account, or shall refuse to produce the same to any such justice, on demand in writing to inspect the same, such person shall forfeit and lose, for such offence, the sum of 20*l*."

Sect. 27. "That, from and after the expiration of forty days after the passing of this act, every person who shall print any paper or book whatsoever, which shall be meant or intended to be published or dispersed, whether the same shall be sold or given away, shall print upon the front of every such paper, if the same shall be printed on one side only, and upon the first and last leaves of every paper or book which shall consist of more than one leaf, in legible characters, his or her name, and the name of the city, town, parish, or place, and also the name (if any) of the square, street, lane, court, or place, in which his or her dwelling-house or usual place of abode shall be; and every person who

Penalty of 20*l*. for keeping presses or types without notice, or using them in any place not expressed therein.

Not to extend to his majesty's printers, or the Universities in England.

Letter-founders and printing-press makers shall give a notice, in the form in the annexed schedule, to the clerk of the peace, who shall grant a certificate, and file the notice, and transmit an attested copy to the secretary of state.

Penalty of 20*l*. for carrying on such business without giving notice.

An account shall be kept of types and printing-presses sold, and to be produced when required, on penalty of 20*l*.

The name and abode of the printer shall be printed on every paper or book.

Printers omitting so to do, and persons dispersing papers without such name and place of abode, shall forfeit 20*l*. (c)

(a) See Form, post, No. 3, p. 228.

(b) See Form, post, No. 4, p. 228.

(c) See Form, post, No. 5, p. 228.

(d) See Form, post, No. 6, p. 228.

(e) A printer cannot recover for labour or materials used in printing any work, unless he affixes his name to it, pursuant to this enactment. *Bensley and Another v. Mignold*, 5 B. & A. 335. Query, whether a printer can recover, in an

action for work and labour, for printing a periodical publication, for parts which were unstamped, if his name were printed on the first and last leaves, on their being bound into volumes, and published at the expiration of a half year, according to the above enactment. *Marchant v. Evans*, 2 Moore, 14; 8 Tass. 142, S. C.

Printers.

there sworn and charged to inquire for our said lord the king, and the body of the said county, as followeth; that is to say, aforesaid, the jurors for our sovereign lord the king, upon their oath present, that," &c. [state the offence, and conclude as in an indictment.]

See form of presentment by a justice of the peace, *Highways*, Vol. III. p. 110.

Pressing Seamen. See *Impressment*, Vol. III.

Presumptive Evidence. See *Evidence*, Vol. II. p. 22, 28.

Presumptions of Law. See *Indictment*, Vol. III. *Evidence*, Vol. II. p. 22.

Pretences. See *Cheat*, Vol. I.

Printers.

[38 Geo. 3, c. 78; 39 Geo. 3, c. 79; 51 Geo. 3, c. 65.]

Printers of newspapers.

THE 38 Geo. III. c. 78, contains a variety of regulations as to the printing and publishing of newspapers and papers of the like kind, and for which see *Newspapers*, Vol. III.

Printers shall give a notice, in the form in the annexed schedule, to the clerk of the peace, who shall grant a certificate, and file the notice, and transmit an attested copy to the secretary of state.

By the 39 Geo. III. c. 79, s. 23, intituled, "An Act for the more effectual Suppression of Societies established for Seditious and Treasonable Purposes; and for better preventing Treasonable and Seditious Practices," after reciting "Whereas many societies, established of late years for treasonable and seditious purposes, and especially the said societies of 'United Englishmen,' 'United Scotsmen,' 'United Irishmen,' and 'United Britons,' and the said society called the 'London Corresponding Society,' and other corresponding societies, have at various times caused to be published, in great quantities, divers printed papers of an irreligious, treasonable, and seditious nature, tending to revile our holy religion, and to bring the profession and worship thereof into contempt among the ignorant, and also to excite hatred and contempt of his majesty's royal person, government, and laws, and of the happy constitution of these realms, as by law established, and utterly to eradicate all principles of religion and morality; and such societies have dispersed such printed papers among the lower classes of the community, either gratis, or at very low prices, and with an activity and profusion beyond all former example: and whereas all persons printing or publishing any papers or writings are by law answerable for the contents thereof, but such responsibility hath of late been in a great degree eluded by the secret printing and publication of such seditious, immoral, and irreligious papers or writings as aforesaid, and it is therefore highly important to the public peace that it should in future be known by whom any such papers shall be printed;" it is enacted, "that, from and after the expiration of forty days from the day of passing this act, every person having any printing-press, or types for printing, shall cause a

notice (a) thereof, signed in the presence of, and attested by one witness, to be delivered to the clerk of the peace acting for the county, stewardry, riding, division, city, borough, town, or place, where the same shall be intended to be used, or his deputy, according to the form practised in the schedule hereunto annexed; and such clerk of the peace, or deputy respectively, shall, and he is hereby authorized and required to grant a certificate (b) in the form prescribed in the schedule hereunto annexed, for which such clerk of the peace, or deputy, shall receive the fee of one shilling, and no more, and such clerk of the peace, or his deputy, shall file such notice, and transmit an attested copy thereof to one of his majesty's principal secretaries of state; and every person who, not having delivered such notice, and obtained such certificate as aforesaid, shall, from and after the expiration of forty days next after the passing of this act, keep or use any printing-press or types for printing, or having delivered such notice, and obtained such certificate as aforesaid, shall use any printing-press or types for printing, in any other place than the place expressed in such notice, shall forfeit and lose the sum of 20*l*."

Sect. 24. "That nothing herein contained shall extend to his majesty's printers for England and Scotland, or to the public presses belonging to the Universities of Oxford and Cambridge respectively."

Sect. 25. "That, from and after the expiration of forty days after the passing of this act, every person carrying on the business of a letter-founder, or maker or seller of types for printing, or of printing-presses, shall cause notice of his or her intention to carry on such business to be delivered to the clerk of the peace of the county, stewardry, riding, division, city, borough, town, or place, where such person shall propose to carry on such business, or his deputy, in the form prescribed in the schedule to this act annexed (c); and such clerk of the peace, or his deputy, shall, and he is hereby authorized and required thereupon to grant a certificate in the form (d) also prescribed in the said schedule, for which such clerk of the peace, or his deputy, shall receive a fee of 1*s*. and no more, and shall file such notice, and transmit an attested copy thereof to one of his majesty's principal secretaries of state; and every person who shall, after the expiration of the said forty days, carry on such business, or make or sell any type for printing, or printing-press, without having given such notice, and obtained such certificate, shall forfeit and lose the sum of 20*l*."

Sect. 26. "That every person who shall sell types for printing, or printing-presses, as aforesaid, shall keep a fair account in writing, of all persons to whom any such types or presses shall be sold, and shall produce such accounts to any justice of the peace who shall require the same; and if such person shall neglect to keep such account, or shall refuse to produce the same to any such justice, on demand in writing to inspect the same, such person shall forfeit and lose, for such offence, the sum of 20*l*."

Sect. 27. "That, from and after the expiration of forty days after the passing of this act, every person who shall print any paper or book whatsoever, which shall be meant or intended to be published or dispersed, whether the same shall be sold or given away, shall print upon the front of every such paper, if the same shall be printed on one side only, and upon the first and last leaves of every paper or book which shall consist of more than one leaf, in legible characters, his or her name, and the name of the city, town, parish, or place, and also the name (if any) of the square, street, lane, court, or place, in which his or her dwelling-house or usual place of abode shall be; and every person who

Penalty of 20*l*. for keeping presses or types without notice, or using them in any place not expressed therein.

Not to extend to his majesty's printers, or the Universities in England.

Letter-founders and printing-press makers shall give a notice, in the form in the annexed schedule, to the clerk of the peace, who shall grant a certificate, and file the notice, and transmit an attested copy to the secretary of state.

Penalty of 20*l*. for carrying on such business without giving notice.

An account shall be kept of types and printing-presses sold, and to be produced when required, on penalty of 20*l*.

The name and abode of the printer shall be printed on every paper or book.

Printers omitting so to do, and persons dispersing papers without such name and place of abode, shall forfeit 20*l*. (e)

(a) See Form, *post*, No. 3, p. 228.

(b) See Form, *post*, No. 4, p. 228.

(c) See Form, *post*, No. 5, p. 228.

(d) See Form, *post*, No. 6, p. 228.

(e) A printer cannot recover for labour or materials used in printing any work, unless he affixes his name to it, pursuant to this enactment. *Bensley and Another v. Bignold*, 5 B. & A. 335. Query, whether a printer can recover, in an

action for work and labour, for printing a periodical publication, for parts which were unstamped, if his name were printed on the first and last leaves, on their being bound into volumes, and published at the expiration of a half year, according to the above enactment. *Marchant v. Evans*, 2 Moore, 14; 8 Taun. 142, S. C.

39 Geo. 3, c. 79.

shall omit so to print his name and place of abode on every such paper or book printed by him, and also every person who shall publish or disperse, or assist in publishing or dispersing, either gratis or for money, any printed paper or book, which shall have been printed after the expiration of forty days from the passing of this act, and on which the name and place of abode of the person printing the same shall not be printed as aforesaid, shall, for every copy of such paper so published or dispersed by him, forfeit and pay the sum of 20*l*."

Not to extend to papers printed by authority of Parliament.

Printers shall keep a copy of every paper they print, and write thereon the name and abode of their employer.

Penalty of 20*l*. for neglect, or refusing to produce the copy within six months.

Persons selling, &c., any paper, without the name and abode of the printer, may be taken before a justice, to determine whether they have offended against this act.

Not to extend to impressions of engravings, or the printing names and addresses, &c. ;

nor to alter any provisions respecting newspapers. (f)

A justice may empower a peace officer to search for presses and types he suspects to be illegally used, and to seize them and the printed papers found.

Sect. 28. "That nothing in this act contained shall extend, or be construed to extend, to any papers printed by the authority and for the use of either house of Parliament."

Sect. 29. "That every person, who, from and after the expiration of forty days after the passing of this act, shall print any paper for hire, reward, gain, or profit, shall carefully preserve and keep one copy (at least) of every paper so printed by him or her, on which he or she shall write, or cause to be written or printed, in fair and legible characters, the name and place of abode of the person or persons by whom he or she shall be employed to print the same; and every person printing any paper for hire, reward, gain, or profit, who shall omit or neglect to write, or cause to be written or printed, as aforesaid, the name and place of his or her employer on one of such printed papers, or to keep or preserve the same for the space of six calendar months next after the printing thereof, or to produce and show the same to any justice of the peace, who, within the said space of six calendar months, shall require to see the same, shall, for every such omission, neglect, or refusal, forfeit and lose the sum of 20*l*."

Sect. 30. "That it shall be lawful for any person, to whom, or in whose presence, any printed paper, not having the name and place of abode of any person printed thereon, in manner hereinbefore directed, or having a fictitious or false name or place of abode printed thereon, shall be sold, or offered for sale, or shall be delivered gratis, or offered so to be, or shall be pasted, fixed, or left in any public place, or in any other manner exposed to public view, to seize and detain the persons so selling or offering to sell, or delivering or offering to deliver, or pasting, fixing, or leaving, in any public place, or in any other manner exposing to public view, any such printed paper, as aforesaid, and forthwith to take and convey him or her before some justice of the peace for the county, stewardry, riding, division, city, borough, town, or place, where such person shall be seized, or to deliver him or her to some constable, or other peace officer, to be taken and conveyed before such justice, as aforesaid, to the intent that such justice may hear and determine whether such person hath been guilty of any offence against this act."

Sect. 31. "That nothing herein contained shall extend to the impression of any engraving, or to the printing by letter-press, of the name, or the name and address, or business or profession, of any person, and the articles in which he deals, or to any papers for the sale of estates or goods by auction, or otherwise."

Sect. 32. "That nothing herein contained shall extend, or be construed to extend, to alter or vary any rule, regulation, or provision contained in any act of Parliament now in force respecting the printing, publishing, or distributing any printed newspaper, or other printed paper."

Sect. 33. "That if any justice of the peace, acting for any county, stewardry, riding, division, city, borough, town, or place, shall, from information upon oath, have reason to suspect that any printing-press or types for printing is or are used or kept for use without notice given and certificate obtained, as required by this act, or in any place not included in such notice and certificate, it shall be lawful for such justice, by warrant under his hand and seal, to direct, authorize, and empower any constable, petty constable, borsholder, headborough, or other peace officer, in the day-time, with such person or persons as shall be called to his assistance, to enter into any such house, room, and place, and search for any printing-press or types for printing; and it shall be lawful for every such peace officer, with such assistance as aforesaid, to enter into such house, room, or place, in the day-time accordingly, and to seize, take, and

carry away, every printing-press found therein, together with all the types and other articles thereto belonging and used in printing, and all printed papers found in such house, room, or place."

Sect. 34. "That no person shall be prosecuted or sued for any penalty imposed by this act, unless such prosecution shall be commenced, or such action shall be brought, within three calendar months next after such penalty shall have been incurred."

Prosecutions to be commenced within three months after penalty incurred.

Recovery of penalties.

Sect. 35. "That any pecuniary penalty imposed by this act, exceeding the sum of 20*l.*, may be sued for and recovered, by any person who will sue for the same, by action of debt, in any of his majesty's courts of record at Westminster, if such penalty shall have been incurred in England or Wales, or the town of Berwick-upon-Tweed, and in his majesty's Court of Exchequer in Scotland, if such penalty shall have been incurred in Scotland; in which action it shall be sufficient to declare or allege that the defendant is indebted to the plaintiff in the sum of 20*l.* (being the sum demanded by such action), being forfeited by an act made and passed in the thirty-ninth year of the reign of his majesty King George III., intituled, 'An Act' [*here set forth the title of the act*]; (a) and the plaintiff, if he shall recover in any such action, shall have his full costs; and any pecuniary penalty imposed by this act, and not exceeding the sum of 20*l.*, and for the recovery whereof no provision is hereinbefore contained, shall and may be recovered before any justice or justices of the peace for the county, stewardry, riding, division, city, town, or place, in which the same shall be incurred, or the person having incurred the same shall happen to be, in a summary way; and, in case such last-mentioned penalty shall not be forthwith paid, such justice or justices shall, by warrant under his or their hand and seal, or hands and seals, and directed to any constable or other peace officer, cause the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and, in case no sufficient distress can be had or made, such justice or justices shall commit the offender to the common gaol or house of correction for such county, stewardry, riding, division, city, borough, town, or place, there to remain, without bail or mainprize, for any time not exceeding six calendar months, nor less than three calendar months."

Sect. 36. "That all pecuniary penalties and forfeitures imposed by this act shall, when recovered, either by action in any court, or in a summary way before any justice, be applied and disposed of in manner hereinafter mentioned; that is to say, one moiety thereof to the plaintiff in any such action, or the informer

Application of penalties.

(a) See the title of the act, *ante*, p. 222. *Fleming v. Bailey*, 5 *East*, 313. The declaration, which was framed on the above 39 Geo. III. c. 79, stated that the defendant was indebted to the plaintiff in 60*l.*; and then contained three counts, in each of which the plaintiff went for a penalty of 20*l.*, under the statute, for printing a certain paper meant to be published and dispersed, and omitting the printer's name and place of abode, as required by s. 27. After verdict for the plaintiff, *Lawes* moved in arrest of judgment, that no action lay by a common informer to recover penalties not exceeding 20*l.* under this statute; and, in support of the motion, s. 35 was cited. *Birch* showed cause, and, amongst other things, contended, that the jurisdiction of the superior courts could not be ousted without express words, or by necessary implication; and that here no such words or necessity existed: he cited *Hill v. Dechair*, 5 *Sty.* 381; *Shipman v. Henbest*, 4

T.R. 109; *R. v. Moreley*, 2 *Burr.* 1040; *Cates q. t. v. Knight*, 3 *T.R.* 442, and 2 *Haw. c.* 26, s. 26, 30. But, *per Lord Ellenborough*, C. J., a common informer can have no right to sue for any penalty, but where power is given to him for that purpose by the statute. Now, the statute in question only says, that a common informer may sue in any court of record for any pecuniary penalty imposed by the act exceeding 20*l.* The penalty given for this offence, each of which must be taken by itself, and cannot be reckoned accumulatively, does not exceed 20*l.*; and, therefore, it is not within the provisions of the 35th clause, which give an action. And the sense of that clause requires that the form of the declaration there afterwards given should be read the same as if the sum to be recovered were left in blank; for how otherwise can the penalty of 100*l.* given by the 15th section be recovered? *Per Cur.*—Judgment arrested.

51 Geo. 3, c. 55.

before any justice, and the other moiety thereof to his majesty, his heirs and successors."

Limitation of actions.

Sect. 37. "That every action and suit which shall be brought or commenced against any justice or justices of the peace, constable, peace officer, or other person or persons, for anything done or acted in pursuance of this act, shall be commenced within three calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and, in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs; which he or they shall and may recover in such and the same manner as any defendant can by law in other cases."

General issue.

Double costs.

Convictions, &c., to be in the forms in the annexed schedule, Nos. 1, 2, 3.

Sect. 38. "That convictions (a) by any justice or justices of the peace for offences against this act, and adjudications of forfeitures of licenses to be made in pursuance of this act, and notices and certificates (a) delivered and granted in pursuance of this act, shall or may be in the several forms set forth for such purposes respectively in the schedule to this act annexed."

51 Geo. 3, c. 61.

By the 51 Geo. III. c. 65, to explain and amend the 39 Geo. III. c. 79, so far as respects certain penalties on printers and publishers:

Printing papers or books contrary to recited act.

Sect. 1, reciting the 39 Geo. III. c. 79, s. 27, 35, it is enacted, "that nothing in the twenty-seventh section of the said act contained shall extend to make any person or persons offending against the same liable to more than twenty-five forfeitures or penalties for printing or publishing, or dispersing, or assisting in publishing or dispersing, any number of copies of one and the same paper or book, contrary to the said section of the said act."

Penalties.

Justices may mitigate penalties.

Sect. 2. "That if any justice or other magistrate, before whom any person shall be convicted of any offence or offences against the provisions of the before-mentioned act, shall see cause to mitigate such penalty or penalties, it shall be lawful for such justice or other magistrate to mitigate or lessen the same to any sum not less than 5*l.*, over and above all reasonable costs and charges expended or incurred in the prosecution."

Name and residence of printers not required to be put to bank-notes, bills, &c., or to any paper printed by authority of any public board or public office.

Sect. 3, reciting that "doubts have arisen whether the provisions contained in the said act may not be considered as extending to notes and post bills of the governor and company of the Bank of England, and to bills of exchange, promissory notes, bonds, and other securities for payment of money, bills of lading, policies of insurance, letters of attorney, transfers or assignments of public stocks, funds, and other securities, and to dividend warrants, receipts for money or goods, deeds, or other instruments, proceedings in the courts of law and equity, and other inferior courts, warrants, orders, and other papers, printed by the authority of any public board or public officer, in the execution of the duties of their respective offices, many of which securities, instruments, proceedings, and other matters aforesaid, are usually wholly or in part printed;" enacts, "that nothing in the said recited act or in this act contained shall extend, or be construed to extend, to require the name and residence of the printer to be printed upon any such bank note, bank post bill, bill of exchange, or promissory note, or upon any bond or other security for payment of money, or upon any bill of lading, policy of insurance, letter of attorney, deed, or agreement, or upon any transfer or assignment of any public stocks, funds, or other securities, or upon any transfer or assignment of the stocks of any public corporation or company, authorized or sanctioned by act of Parliament, or upon any dividend warrant or for any such public or other stocks, funds, or securities, or

upon any receipt for money or goods, or upon any proceeding in any court of law or equity, or in any inferior court, warrant, order, or other papers, printed by the authority of any public board or public officer, in the execution of the duties of their respective offices, notwithstanding the whole or any part of the said several securities, instruments, proceedings, matters, and things aforesaid, shall have been or shall be printed; any thing herein or in the said recited act contained to the contrary thereof in any wise notwithstanding."

Sect. 4. "That if any person or persons shall think himself, herself, or themselves aggrieved by any conviction, judgment, or determination, of any justice or justices, relating to any matter or thing in the before-mentioned act contained, then and in that case he, she, or they may appeal to the justices of the peace at the general quarter sessions to be holden in and for the county, city, or place where such conviction, judgment, or determination shall have been made, next after the expiration of twenty days from the making thereof, first giving six days' notice of such appeal to the person or persons prosecuting for such penalty or penalties; and the said justices shall hear and determine the said appeal at such general quarter sessions, or, if they think proper, adjourn the hearing thereof until the next general quarter sessions, to be holden for such county, town, or place; and the said justices may, in like manner, if they see cause, mitigate any penalty or penalties, and may order any money to be returned which shall have been paid or levied under any conviction, as aforesaid, and may also order and award such costs to be paid by either party to the other, as they shall think and judge reasonable."

Appeal.

Forms.

(No. 1.)

—shire } Be it remembered, that on the day of , in the
to wit. } year of the reign of our sovereign lord , and in the year of
our Lord , at , in the parish of , in the county of
J. E., of the parish of , in the same county, , came before me,
one of his majesty's justices assigned to keep the peace of our said lord the king, in and
for the said county, and giveth me, the said justice, to understand and be informed,
that J. B., of the parish of aforesaid, in the county aforesaid, (yeoman,) within
the space of three calendar months now last past, that is to say, on the day of
 , in the year of the reign of our said lord the king, at the parish of
 aforesaid, in the county aforesaid, did publish and disperse, gratis, one printed
paper, printed on one side only, and consisting of one leaf only, in the words and figures
following, that is to say, [if the document be not long, here copy it verbatim] and
which said printed paper had been printed after the expiration of forty days from the
passing of a certain act of Parliament made and passed in the 39th year of the reign of
his late majesty, King George the Third, intituled, 'An Act for the more effectual
Suppression of Societies established for Seditious and Treasonable Practices;' and the
said J. E. further giveth me, the said justice, to understand and be informed, that at
the time of the publishing and dispersing the said printed paper as aforesaid, there was
not printed upon the front thereof, in legible characters, the name of the person who
printed the same, or the name of the city, town, parish, or place, or the name of the
square, street, lane, court, or place in which such person's dwelling-house or usual
place of abode was, according to the form of the statute in such case made and pro-
vided, contrary to the form of the statute in such case made and provided; whereby,
and by force of the said statute, the said J. B. forfeited and became liable to pay for
his said offence the sum of 20l.: and thereupon the said J. E. prays judgment of me,
the said justice, and that the said J. B. may be summoned to answer the premises, and
to make defence thereto, before me, the said justice, &c.

Information on
29 Geo. 3, c. 79,
s. 27, for publish-
ing printed hand-
bills without the
printer's name.

[A form of conviction for this offence may be readily framed from this and the next precedent.]

Conviction for
like offence.

(No. 2.)

The schedule to which the 39 Geo. III. c. 79, refers.

" ——— } "Be it remembered, that on this day of , in the
to wit. } year of the reign of , A. B., of , is duly
 Q 2

Conviction of
having or using a
printing-press, or

FORMS.

types for printing, without notice, or using the same in a place not specified in such notice, or not keeping accounts as required by the act, or any other offence against the act (e).

convicted before me, [or, us] of his majesty's justices of the peace for in pursuance of an act of the 39th year of the reign of King George the Third [set forth the title of the act (ante, p. 222)], for that the said A. B., on the day of , at , did, contrary to the said act, keep [or, use, as the case may be,] a printing-press [or, types for printing; or, carrying on the business of a letter-founder, or, maker or seller of types, or printing-presses], not having given such notice, and obtained such certificate, as by the said act is required [or, in , being a place not specified in any notice given by the said A. B. in pursuance of the said act, whereupon he had obtained such certificate, as by the said act is required; or, not keeping an account of a person to whom the said A. B. sold printing-types, or, a printing-press, as the case may be; or, not printing his name, &c. as the case may require; or, not keeping a copy of a paper printed by him for hire, reward, gain, or profit, to wit, a paper [describing it], which the said A. B. printed, &c.; or, not producing a copy of a paper printed, &c.; or, specifying any other offence against the act, and the time and place when and where the same was committed.] Wherefore I [or, we], the said , do adjudge that he, the said A. B., do pay the sum of , as a penalty for his offence, in pursuance of the said act. Given under our hands and seals, this day of , in the year of our Lord , and in the year of the reign of his majesty King ."

(No. 3.)

Notice to clerk of the peace, that any person keeps any printing-press, or types for printing. (e)

To the Clerk of the Peace for [here insert the county, stewardry, riding, division, city, borough, town, or place], or his deputy.

I, A. B., of , do hereby declare, that I have a printing-press and types for printing, which I propose to use for printing, within [as the case may require], and which I require to be entered for that purpose, in pursuance of an act passed in the thirty-ninth year of the reign of his late majesty King George the Third [set forth the title of the act, ante, 222.] Witness my hand, this day of .

Signed in the presence of

(No. 4.)

Certificate that notice has been given of a printing-press, or types for printing. (e)

I, , clerk [or, deputy clerk] of the peace for , do hereby certify, that A. B., of , hath delivered to me a notice in writing, appearing to be signed by him, and attested by C. D. as a witness to his signing the same, that he, the said A. B., hath a printing-press and types for printing, which he proposes to use for printing, within , and which he has required to be entered, pursuant to an act passed in the thirty-ninth year of his late majesty King George the Third's reign [set forth the title of the act, ante, 222.] Witness my hand, this day of .

(No. 5.)

Notice to clerk of the peace, that any person carries on the business of a letter-founder, or maker or seller of types for printing, or of printing-presses. (e)

To the Clerk of the Peace for [as the case may be], or his deputy.

I, A. B., of , do hereby declare, that I intend to carry on the business of a letter-founder, or maker or seller of types for printing, or, of printing-presses [as the case may be], at ; and I hereby require this notice to be entered, in pursuance of an act passed in the thirty-ninth year of the reign of his late majesty King George the Third [set forth the title of the act, ante, 222.]

Signed in the presence of

(No. 6.)

Certificate that the above notice has been given. (e)

I, G. H., clerk [or, deputy clerk] of the peace for [as the case may be], do hereby certify, that A. B., of , hath delivered to me a notice in writing, appearing to be signed by him, and attested by E. F. as a witness to his signing the same, that he intends to carry on the business of a letter-founder, or maker or seller of types for printing, [or, of printing-presses], at ; and which notice he has required to be entered, in pursuance of an act of the thirty-ninth year of his late majesty King George the Third [set forth the title of the act, ante, 222.] Witness my hand, this day of .

Principals. See *Assault*, Vol. I. p. 13 to 17.

Prison and Prisoner. See *Gaol*, Vol. II.; *Insolvents*, Vol. III.

Prison Books, Evidence by. See *Evidence*, Vol. II. p. 39.

Prison-Breaking.

[3 Ed. I. c. 15; 1 Ed. II. st. 2; 4 Geo. IV. c. 64; 9 Geo. 4, c. 31.]

FOR the law relative to escapes where there is no actual *breaking* of the prison, see *Escape*, Vol. I.; and as to *Rescues*, see *Rescue*, *post*.

It seemeth that, at the common law, all prison-breaches were felonies, if the party were lawfully in custody for any cause whatsoever. 2 *Haw. c.* 18, s. 1. At common law.

But by the following statute, which is called the statute *de frangentibus prisonam*, the severity of the common law is moderated; in the explication of which statute will be contained the whole learning relating to this subject. By statute.

The statute is this: concerning prisoners which break prison, the king will-eth and commandeth that none that breaketh prison shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convict there-upon, according to the law and custom of the realm.

Concerning Prisoners which Break—Therefore, if the prison be broken by a stranger, and not by the prisoner, or by his procurement, this is no felony in the prisoner. *Hale's Sum.* 108. Prison broken by a stranger.

Which Break Prison—It seems clear that any place whatsoever wherein a person under a lawful arrest for a supposed crime is restrained of his liberty, whether in the stocks, or street, or in the common gaol, or the house of a constable or private person, is properly a prison within this statute; for imprisonment is nothing else but a restraint of liberty. 2 *Haw. c.* 18, s. 4. What shall be deemed a prison.

And therefore this extendeth as well to a prison in law as a prison in deed. 2 *Inst.* 589.

But there must be an actual *breaking*; for if the door be open and he goes out, it is not felony, but a misdemeanor only. 2 *Inst.* 589; 2 *Haw. c.* 18, s. 9. Must be an actual breaking.

But if the prison be fired without the privity of the prisoner, he may lawfully break, to save his life. *Hale's Sum.* 108.

Also, it seems that no breach of prison will amount to felony, unless the prisoner escape. 2 *Haw. c.* 18, s. 12.

But there need not, it seems, be any actual intent to break, to constitute the offence. Where, therefore, it appeared that the prisoner made his escape from the house of correction, by tying two ladders together and placing them against the wall of the yard, and, in making his escape, had thrown down some of the bricks of the wall, this was held to be a sufficient breaking. *R. v. Haswell, R. & R.* 458.

That none that Breaketh Prison shall have Judgment of Life or Member—That, shall be guilty of felony. But, nevertheless, he is still punishable as for a high misprision, by fine and imprisonment; for it cannot be thought the meaning of the statute, in ordaining that such offences shall not be punished as capital ones, to intend that they shall not be punished at all. 2 *Haw. c.* 18, s. 21. How punishable.

Except the Cause for which he was Taken and Imprisoned did require such Party must be lawfully in prison.

Judgment]—This is to be intended of a *lawful* cause; and therefore *false imprisonment* is not within this act. 2 *Inst.* 590.

Imprisonment,
what.

Imprisonment is a restraint of a man's liberty under the custody of another, by lawful warrant, in deed or in law. Lawful warrant is either when the offence appeareth by matter of record, as when the party is taken upon an indictment; or when it doth not appear by matter of record, as when a felony is done, and the offender, by a lawful *mittimus*, is committed to gaol for the same: but between these two cases there is a great diversity; for in the first case, whether any felony were committed or no, if the offender be taken by force of a *capias*, the warrant is lawful, and if he break prison, it is felony, although no felony were committed; but in the other case, if no felony be done at all, and yet he be committed to prison for a supposed felony, and break prison, this is no felony, for there is no *cause*. 2 *Inst.* 590.

For what.

So that the cause must be just and not feigned, for things feigned require no judgment: thus, if a man give another a mortal wound, for which he is committed to prison, and breaketh prison, and the other dieth of the wound within the year, this death hath relation to the stroke; but because relations are but fictions in law, and fictions are not here intended, this prison-breaking is not felony. 2 *Inst.* 591; *Cole's case*, *Plowd. Com.* 401.

So that the offence for which the party was imprisoned must be a capital one at the time of the offence, and not become such by a matter subsequent. 2 *Haw. c.* 18, s. 14.

And the cause must be expressed in the *mittimus*, although not so certainly as in an indictment; yet with such a convenient certainty as it may appear judicially that the offence requireth such judgment; as, not for felony generally, but for felony in stealing such a horse, and the like. 2 *Inst.* 591.

But if the offence for which the party is committed be supposed in the *mittimus* to be of such a nature as requires a capital judgment; yet if, in the event, it be found to be of an inferior nature, and not to require such a judgment, it seems difficult to maintain that the breaking of the prison, on a commitment for it, can be felony; for the words of the statute are, except the cause for which he was taken and imprisoned did require such judgment; and here it appears that the offence, which is the cause of his imprisonment, doth not require such a judgment. 2 *Haw. c.* 18, s. 15.

Suspicion, &c.

But if a man be committed by lawful warrant for *suspicion* of felony done, if he break prison he may be indicted for that escape, albeit the commitment be for suspicion of felony, and yet no judgment can be given against him for suspicion, but for the felony itself, whereof he is suspected. 2 *Inst.* 592.

And an indictment that such a person *feloniously broke the prison*, generally, is not good; but it ought to rehearse the specialty of the matter, that he, being imprisoned for such or such felony, broke the prison. 2 *Inst.* 591.

But if the party be only arrested for and in his *mittimus* charged with a crime which doth not require judgment of life or member, as petit larceny, or homicide by self-defence or by misadventure, and the offence be in truth no greater than the *mittimus* doth suppose it to be, it is clear, from the express words of the statute, that the breaking of the prison cannot amount to felony. 2 *Haw. c.* 18, s. 15.

But if a felony be made by a subsequent statute, and an offender is committed thereupon, if he break prison, it is felony; for, since all breaches of prison were felonies by the common law, which is restrained by this statute in respect only of imprisonment for offences not capital, when an offence becomes capital, it is as much out of the benefit of the statute as if it had always been so. *Hale's Sum.* 108.

Also, it is said that the party may be arraigned for prison-breaking, before he be convicted of the crime for which he was imprisoned; for that it is not material whether he were guilty of such crime or not; for the words of the statute are, *for which he was taken and imprisoned*. 2 *Haw. c.* 18, s. 16.

But if he be first indicted and acquitted of the principal felony, he shall not be indicted for the breach of prison afterwards; for it being clear that he was not guilty of the felony, he is in law as a person never committed for felony, and so his breach of prison is no felony. 1 *Hale*, 612.

But the gaoler shall not be punished as a felon for the party's breach of prison, unless he voluntarily consented to it: but it seems to be a negligent escape in the gaoler, for which he may be punished by fine and imprisonment, because there wanted either that due strength in the gaol, or that due vigilance in the gaoler or his officers, that should have prevented it; and if gaolers might not be punished for this as a negligent escape, they would be careless either to secure their prisoners or to retake them that escape. 1 *Hale*, 601.

Voluntary or negligent gaoler.

And therefore if a criminal, endeavouring to break the gaol, assault his gaoler, he may be lawfully killed by him in the affray. 1 *Haw. c.* 28, s. 12.

By the 4 Geo. IV. c. 64, s. 44, "to the intent that prosecution for escapes, breaches of prison, and rescues, may be carried on with as little trouble and expense as is possible," it is enacted, "that any offender escaping, breaking prison, or being rescued therefrom, may be tried either in the jurisdiction where the offence was committed, or in that where he or she shall be apprehended and retaken; and in case of any prosecution for any such escape, attempt to escape, breach of prison, or rescue, either against the offender escaping or attempting to escape, or having broken prison, or having been rescued, or against any other person or persons concerned therein, or aiding, abetting, or assisting the same, a certificate given by the clerk of the assize, or other clerk of the court in which such offender shall have been convicted, shall, together with due proof of the identity of the person, be sufficient evidence to the court and jury of the nature and fact of the conviction, and of the species and period of confinement to which such person was sentenced." See the forty-third section, *Escape*, Vol. II. p. 11.

Method of trial and conviction of offenders making escapes.

By the Mutiny Act, it is usually enacted, that if any offender, under sentence of death by a court-martial as aforesaid, shall obtain his majesty's conditional pardon as aforesaid, all and every the laws now in force touching the escape of felons under sentence of death, shall apply to such offender and to all persons aiding, abetting, or assisting in any escape or intended escape of any such offender, or contriving any such escape, from the time when such order shall be made by such justice or baron as aforesaid, and during all the several proceedings which shall be had for the purposes aforesaid.

Escape of offenders convicted by court-martial, and having a conditional pardon.

As to assaulting peace-officers, see the 9 Geo. IV. c. 31, s. 25; *Assault*, Vol. I. p. 279.

Assaults on peace officers.

Forms.

(No. 1.)

Commencement as usual, *ante*, p. 71, No. 1.] *That A. O., on, &c. at, &c.*
being then imprisoned in the house of correction at _____, in the said county, under
and by virtue of a warrant of commitment of one of his majesty's justices of the peace
for _____, [feloniously] (a), unlawfully, and wilfully, did break the said prison,
and escape from the same. And you, the said keeper, &c. [And conclude as usual,
as ante, p. 71, No. 1.]

Commitment for prison-breaking.

(No. 2.)

— } *The jurors for our lord the king upon their oath present, that A. C., late*
to wit. } of _____, [yeoman], constable of our said lord the king, in and for the
[town] of _____, in the said county, on the _____ day of _____, in the _____ year
of the reign of _____, at _____, within the [town] and constableness aforesaid,
in the county aforesaid, did take and arrest one A. O., late of _____, [labourer], on
suspicion of having committed a certain [felony, in feloniously taking and leading away
one black gelding, the property of _____, of the value of _____], and thereupon
he the said A. O., under the custody of him the said A. C., the constable aforesaid,
was brought before J. P., Esq., one of the justices of our said lord the king assigned
to keep the peace in the said county, and also to hear and determine divers felonies,
trespasses, and other misdemeanors, within the said county committed; and he the said

Indictment for prison-breaking, by escaping from a constable. (b)

(a) Omit the word "feloniously," if the defendant were in custody for a misdemeanor.

(b) See forms, 2 *Chit. C. L.* p. 158, &c.; and *ante*, *Escape*, Vol. II.

FORMS.

J. P., by his warrant, directed to the said A. C. and others, did command the said A. C. to carry and convey the said A. O. to the gaol of our said lord the king, at _____, in the county aforesaid, there to be safely kept until he should be lawfully delivered from thence; by virtue of which said warrant he the said A. O. was taken and detained by him the said A. C.; and whilst he the said A. C. was conveying and carrying him the said A. O. to the gaol aforesaid, afterwards, to wit, on the _____ day of _____, in the year aforesaid, he the said A. O., of _____, aforesaid, in the county aforesaid, with force and arms, did [feloniously] break away and escape from and out of the custody of him the said A. C., the constable aforesaid, against the will of him the said A. C., and against the peace of our said lord the king, his crown and dignity.

(No. 3.)

Indictment for
breaking out of
gaol.

— } *The jurors for our lord the king upon their oath present, that A. O., late to wit. } of _____, in the county aforesaid, [labourer], on the _____ day of _____, in the _____ year of the reign of _____, at _____, aforesaid, in the county aforesaid, was arrested, imprisoned, and detained, in the gaol of our said lord the king, for a certain [felony] by him committed; that is to say, for [feloniously taking and leading away one black gelding, the property of _____, of the value of _____]; and that he the said A. O., on the _____ day of _____, in the year aforesaid, with force and arms, the aforesaid gaol of our said lord the king, at _____, aforesaid, in the county aforesaid, [feloniously (a)] did break, and thereby did escape from and out of the said gaol, against the peace of our said lord the king, his crown and dignity.*

Prisoners of War.

[54 Geo. III. c. 156.]

Aiding prisoners
of war to escape.

BY the 52 Geo. III. c. 156, it is enacted, "that every person who shall, from and after the passing of this act, knowingly and wilfully aid or assist any alien enemy of his majesty, being a prisoner of war in his majesty's dominions, whether such prisoner shall be confined as a prisoner of war in any prison or other place of confinement, or shall be suffered to be at large in his majesty's dominions, or any part thereof, on his parole, to escape from such prison or other place of confinement, or from his majesty's dominions, if at large upon parole, shall, upon being convicted thereof, be adjudged guilty of felony, and be liable to be transported as a felon for life, or for such term of fourteen or seven years, as the court before whom such person shall be convicted shall adjudge."

Transportation.

Aiding though
not assisting pri-
soner in quitting
coast.

SECT. 2. "That every person who shall knowingly and wilfully aid or assist any such prisoner at large on parole in quitting any part of his majesty's dominions where he may be on his parole, although he shall not aid or assist such person in quitting the coast of any part of his majesty's dominions, shall be deemed guilty of aiding the escape of such person under the provisions of this act."

Assisting on high
seas prisoners to
escape.

SECT. 3. "That if any person or persons, owing allegiance to his majesty, after any such prisoner as aforesaid hath quitted the coast of any part of his majesty's dominions in such his escape as aforesaid, shall knowingly and wilfully, upon the high seas, aid or assist such prisoner in his escape to or towards any other dominions or place, such person shall also be adjudged guilty of felony, and be liable to be transported as aforesaid; and such offences committed upon the high seas, and not within the body of any county, shall and may be inquired of, tried, heard, determined, and adjudged in any county within the realm, in like manner as if such offences had been committed within such county."

Transportation.

Offences, where
tried.

Offences tried
otherwise than
under provisions
of act.

SECT. 4. "That this act shall not be deemed or taken to prevent any person, committing any offence mentioned in this act, from being prosecuted, in such

(a) Omit this word if party was not in custody for treason or felony.

manner as he might by law have been prosecuted if this act had not passed ; but, nevertheless, no person prosecuted otherwise than under the provisions of this act, shall be liable to be prosecuted for the same offence under the provisions hereof ; and no person prosecuted under the provisions of this act shall, for the same offence, be liable to be otherwise prosecuted."

Prize-Money. See *Seamen, post.* *Military Law*, Vol. III.

Prize-Fighting, ante, Fighting, Vol. II. ; and Vol. I. p. 271.

Probate, Proof by. See *Evidence*, Vol. II. p. 47.

Process.

PROCESS is so called because it *proceeds* or issues forth in order to bring the defendant to answer the charge preferred against him ; and signifies the writs ^{What.} or judicial means by which he is brought to answer.

Process prior to Indictment, not referable to Appearance in Courts of Record.

- See 1, *Summons, post.*
- 2, *Warrant, post.*
- 3, *Search-Warrant, post.*
- 4, *Commitment*, Vol. I.

Process after Indictment, and referable to Appearance in Courts of Record ; and herein—

- I. *To Compel an Appearance*, p. 233 to 238.
- II. *Of Outlawry for Non-appearance*, p. 238 to 241.

Process against Witnesses. See *Evidence*, Vol. II. p. 82 to 84.

Process against Jurors. See *Jurors*, Vol. III.

Process for Contempt. See *Attachment*, Vol. I.

I. To compel an Appearance in a Court of Record. (a)

[3 Edw. I. c. 14 ; 1 Edw. IV. c. 2 ; 8 Hen. VI. c. 10 ; 31 Eliz. c. 3 ; 21 Jac. I. c. 4 ; 29 Car. II. c. 7 ; 48 Geo. III. c. 58.]

By the commission of the peace, the justices in sessions have power to make ^{Process by the} and continue processes upon indictments against the persons indicted, until ^{commission.} they can be taken, surrender themselves, or be outlawed.

(a) As to this kind of process in general, see 1 *Chit. C. L.* 337 to 347 ; *Com. Dig. Process* ; also, Mr. Cude's useful work on the subject.

Process on indictments taken in the tourn.

And by the 1 Edw. IV. c. 2, indictments and presentments taken in the sheriff's tourn shall be delivered to the next sessions, who may award process thereupon in like form as if they had been taken before themselves.

Process by justices out of sessions.

And the law also in several cases in express words directs process to be made by justices out of sessions; and in other cases by necessary implication; and where a statute doth give power to justices out of sessions to inquire, hear, and determine, there they may make process to cause the party to come and answer, otherwise they cannot proceed to hear and determine; and this may be either before or after presentment or indictment, as the several statutes do require: before presentment or indictment, it is called a *warrant*; after presentment or indictment, it is properly called *process*. *Dalt.* c. 193, p. 471.

Process, what.

Commonly, an indictment, being but an accusation against a man, is of no force but only to put him to answer unto it. And hereof all process hath the name, because it *proceedeth*, or goeth out, upon former matter, either original or judicial. *Lamb.* 519.

No need of, if party be present.

And it seemeth plain, from the nature of the thing, that there can be no need of process where the defendant is present in court, but only where he is absent. 2 *Haw.* c. 27; 1 *Chit. C. L.* 338.

To be in the king's name.

The process ought to be in the name of the king. And if it issue from the King's Bench, it ought to be under the teste of the chief justice. If it issue from any other court, there seems to be the same reason that it ought to be under the teste of the first in the commission. 2 *Haw.* c. 27. s. 8; 1 *Chit. C. L.* 339.

When returnable.

Upon an indictment in sessions, (for a misdemeanor, not being a felony,) there must be fifteen days between the teste and return of the *venire*; but if the entry be by consent of parties, the *venire* may be returnable *immediatē*, and the trial be the same day. 3 *Salk.* 371.

Process for felony.

Process on an indictment for felony, by the 25 Edw. III. c. 14, is two *capias's*, and then an exigent. *Hale's Sum.* 209; 2 *Haw.* c. 27, s. 115.

Process for misdemeanors, &c.

The ordinary processes upon all indictments of trespass against the peace, or of other offences against penal statutes, not being felony, or a greater offence, are as follow: first, if the offender be absent, a *venire facias*, which is but in the nature of a summons to cause the party to appear, shall be awarded, except where other process is directed by some statute. 2 *Haw.* c. 27, s. 9.

If it appear by the return of such *venire*, that the party hath lands in the county, whereby he may be distrained, the *distress infinite* shall be awarded from time to time till he do appear, and by force thereof he shall forfeit on every default so much as the sheriff shall return upon him in issues. But if a *nihil* be returned on such a *venire*, then three *capias's*, that is, a *capias*, *alias*, and *pluries*, shall issue. 2 *Haw.* c. 27, s. 10.

Where the inhabitants of a parish are indicted or presented, the process is, first, a *venire*, then a *distringas*.

And see further, as to the different kinds of process, 1 *Chit. C. L.* 338.

Process on informations.

By the 21 Jac. I. c. 4, by which all popular actions on penal statutes are restrained to their proper counties, the like process in every popular action, bill, plaint, suit, or information on a penal statute, before the quarter sessions (or higher courts), shall be awarded as in an action of trespass *vi et armis*, at the common law.

And, consequently, the process in all such suits must be by attachment or *pone per vadios*; and afterwards by *distress infinite*, where by the return the party appears to be sufficient, otherwise by *capias*. 2 *Haw.* c. 27, s. 13.

When any person is charged with any offence (not being treason or felony) for which he may be prosecuted by indictment or information in King's Bench;

The 48 Geo. III. c. 58, s. 1, enacts, "That whenever any person shall be charged with any offence for which he or she may be prosecuted by indictment or information in his majesty's court of King's Bench, not being treason or felony, and the same shall be made appear to any judge of the same court by affidavit, or by certificate of an indictment or information being filed against such person in the said court for such offence, it shall and may be lawful for such judge to issue his warrant under his hand and seal, and thereby to

cause such person to be apprehended and brought before him or some other judge of the same court, or before some one of his majesty's justices of the peace, in order to his or her being bound to the king's majesty with two sufficient sureties, in such sum as in the said warrant shall be expressed, with condition to appear in the said court at the time mentioned in such warrant, and to answer to all and singular indictments or informations for any such offence; and in case any such person shall neglect or refuse to become bound as aforesaid, it shall be lawful for such judge or justice respectively to commit such person to the common gaol of the county, city, or place where the offence shall have been committed, or where he or she shall have been apprehended, there to remain until he or she shall become bound as aforesaid, or shall be discharged by order of the said court in term time, or of one of the judges of the said court in vacation; and the recognizance to be thereupon taken shall be returned and filed in the said court, and shall continue in force until such person shall have been acquitted of such offence, or in case of conviction, shall have received judgment for the same, unless sooner ordered by the said court to be discharged; and that where any person, either by virtue of such warrant of commitment as aforesaid, or by virtue of any writ of *capias ad respondendum* issued out of the said court, is now detained, or shall hereafter be committed to, and detained in any gaol for want of bail, it shall be lawful for the prosecutor of such indictment or information to cause a copy thereof to be delivered to such person, or to the gaoler, keeper, or turnkey of the gaol wherein such person is or shall be so detained, with a notice thereon indorsed, that unless such person shall, within eight days from the time of such delivery of a copy of the indictment or information as aforesaid, cause an appearance, and also a plea or demurrer to be entered in the said court to such indictment or information, an appearance and the plea of not guilty will be entered thereto in the name of such person; and in case he or she shall thereupon, for the said space of eight days after such delivery of a copy of the indictment or information as aforesaid, neglect to cause an appearance, and also a plea or demurrer to be entered in the said court to such indictment or information, it shall be lawful for the prosecutor of such indictment or information, upon an affidavit being made and filed in the said court, of the delivery of a copy of such indictment or information, with such notice indorsed thereon as aforesaid, to such person, or to such gaoler, keeper, or turnkey, as the case may be, which affidavit may be made before any judge or commissioner of the said court authorized to take affidavits in the said court, to cause an appearance and the plea of not guilty to be entered in the said court to such indictment or information, for such person, and such proceedings shall be had thereupon as if the defendant in such indictment or information had appeared and pleaded not guilty, according to the usual course of the said court; and that if, upon the trial of such indictment or information, any defendant so committed and detained as aforesaid, shall be acquitted of all the offences therein charged upon him or her, it shall be lawful for the judge before whom such trial shall be had, although he may not be one of the judges of the said court of King's Bench, to order that such defendant shall be forthwith discharged out of custody as to his or her commitment as aforesaid, and such defendant shall be thereupon discharged accordingly."

upon affidavit thereof, or on certificate of indictment, &c., being filed, any judge of the court may issue his warrant to apprehend the party; who shall be thereupon held to bail to answer the charge, or on failure of bail shall be committed; and if any person in custody for want of bail shall not plead in eight days after copy of indictment, &c., and notice to plead, are delivered at the gaol, the prosecutor may enter the plea of not guilty, and proceed to trial.

Party acquitted may be discharged.

It appears now to be the established practice, independently of this statute, upon an indictment found for a misdemeanor at the assizes or sessions, to issue a bench warrant, signed by a judge or justices of the peace, or two of the latter, to apprehend the defendant; and, when the assizes and sessions are over, the clerk of assize, and clerk of the peace respectively, will, on the application of the prosecutor, grant a certificate of the indictment having been found, upon which any judge of the King's Bench, or justice of the peace of the proper county, will grant a warrant for apprehending the defendant, and will oblige him to enter into recognizance to answer, or for want of sureties will commit him. See 1 *Chit. C. L.* 339, and the various authorities there cited.

Bench warrants.

If a defendant appear to an indictment of felony, and afterwards before issue joined make an escape either from his bail or from prison, the common *capias*, Process on an escape.

alias, and *pluries*, shall be awarded against him, unless there had been an *exigent* before, in which case a new *exigent* shall be awarded. 2 *Haw. c. 27, s. 19.*

Process against
accessaries.

By the 3 Edw. I. c. 14, the *exigent* shall not be awarded against accessaries until the principals shall be attained. 2 *Haw. c. 27, s. 130.*

Process in a fo-
reign country.

By the 8 Hen. VI. c. 10, on indictments for treason, felony, or trespass against persons dwelling in other counties than where the indictment is taken, before any *exigent* awarded, presently after the first writ of *capias* awarded and returned, another writ of *capias* shall be awarded, directed to the sheriff of the county whereof the person indicted was supposed to be conversant by the same indictment, returnable before the same justices or others before whom he is indicted, at a certain day continuing the space of three months from the date of the said last writ, where the counties are holden from month to month; and where they are holden from six weeks to six weeks he shall have four months, until the return of the same writ; by which writ of second *capias* it shall be commanded to the same sheriff to take the person indicted by his body, if he can be found within his bailiwick; and if he cannot be found within his bailiwick, that the said sheriff shall make proclamation in two counties before the return of the same writ, that he which is so indicted shall appear before the said justices or others in the county, liberty, or franchise where he is indicted, at the day contained in the said last writ of *capias*, to answer to the king of the felony, treason, or trespass, whereof he is so indicted; after which second writ of *capias* so served and returned, if he which is so indicted come not at the day of the same writ of *capias* returned, the *exigent* shall be awarded. And every *exigent* and outlawry otherwise awarded or pronounced shall be void.

And if any such indictment shall be removed by *certiorari*, then before the *exigent* awarded, presently after such first *capias* returned, another writ of *capias* shall be directed as before, returnable before the king in his bench.

But this shall not extend to indictments taken in the county of Chester.

Also, if any person be indicted of felony or treason, and at the time of the same felony or treason supposed was conversant within the county whereof the indictment maketh mention, the like process shall be made against the person so indicted, as hath formerly been used; that is, without sending process into the other county.

But every person indicted in the form aforesaid, after he is duly acquit by verdict, shall have an action upon his case, against the procurer of such indictment; and if such procurer be attained thereof, the plaintiff shall recover treble damages. Which seemeth to be upon account of the distance at which he is supposed to live from the place where he is indicted, and consequently his extraordinary trouble in that behalf.

Dwelling in other Counties—If the defendant be named of B. and late of C., there is no need of any *capias* to the sheriff of the county where C. lies, because it appears that the defendant is at present conversant at B. But if a defendant be named of no certain place at present, but only late of B. and late of C. and late of D., being all of them in counties different from that wherein the prosecution is commenced, a *capias* shall go to the sheriff of every one of those counties. 2 *Haw. c. 27, s. 126.*

Shall be void—Not utterly void, but only voidable by writ of error. *Id.*

County of Chester—But it may be awarded into the counties palatine of Lancaster and Durham; and it seems that it shall be directed to and returned by the Chancellor of Lancaster or Bishop of Durham; and it hath been said that, if he will not return it, the *exigent* may be awarded as well as if he had returned it; because the court (of the sessions at least) cannot compel him to return it, and the prosecution might be unreasonably delayed, if the proceedings were to be stayed till he should return it. 2 *Haw. c. 27, s. 125; Hale's Sum. 209, 210.*

Mr. Marrow saith that, by the equity of this statute, if a person indicted in one county is imprisoned in another, the justices may award an *habeas corpus* to remove him before themselves. *Lamb. 526.*

To be executed
by the sheriff.

Concerning the execution of the process, it is laid down as a general rule,

that wherever the king is a party to the suit (as he certainly is to all informations and indictments), the process ought to be executed by the sheriff himself, and not by the bailiff of any franchise, whether it have the clause *non omittas* or not, and whether the defendant be within a franchise or in the county at large; for the king's prerogative shall be preferred to any franchise: but it is said, that this is to be intended only where in the grant of the franchise no mention is made of causes to which the king is a party. 2 *Haw. c. 27, s. 17*; and see further as to the execution of process, *post*, *Exarant*.

And if the party be in a house, if the doors be shut, and the sheriff (having given notice of his process) demand admittance, and the doors be not opened, he may break open the doors, and enter to take the offender. 2 *Hale, 202*; and see, further, *post*, *Exarant*.

In the execution of process against any man in the case of a misdemeanor, it is necessary to demand admittance, before the breaking of the outer door of the house can be legally justified; but *quare*, if it be so in the case of felony.

Lamock v. Brown, 2 B. & A. 592. Trespass for breaking and entering plaintiff's dwelling-house and seizing a gun. Plea, not guilty. At the trial before *Holroyd, J.*, the defendants, two of whom were constables, and the third the gamekeeper of the manor where the plaintiff resided, justified the trespass under a warrant granted by virtue of the 22 & 23 Car. II. c. 25, s. 2, which empowers gamekeepers and other persons, authorized by warrant under the hand and seal of any justice of the peace for the county, in the day-time, to search the houses of unqualified persons suspected of having in their custody guns, &c., for the purpose of destroying game, and to seize, detain, and keep the same, to and for the use of the lord of the manor, or to cut to pieces and destroy them. The plaintiff was proved to be an unqualified person, but, on the warrant being produced, several objections were taken to it as being informal. And it further appearing that the outer door of the plaintiff's house had been broken open without his having been previously requested to open it, the learned judge was of opinion that the justification was not sufficiently made out, and the plaintiff obtained a verdict. And now, on a motion for a rule to show cause why the verdict should not be set aside, and a nonsuit entered, it was contended that the defendants were justified in obeying the warrant; and that, if the warrant was informal, the proper remedy of the plaintiff was not against them, but against the magistrate who had granted it. Then, as to the other objection, that the outer door was broken open, he contended that here there appeared to have been a misdemeanor on the part of the plaintiff; and that, in the execution of criminal process, the outer door may be lawfully broken open. If a previous request be held to be necessary, it will be very inconvenient; for in many criminal cases—as, for instance, felony, it will give the party accused notice that he may make his escape.—*Abbott, C. J.* I am of opinion that, in this case, the verdict is right. It is not at present necessary for us to decide how far, in the case of a person charged with felony, it would be necessary to make a previous demand of admittance before you could justify breaking open the outer door of his house; because I am clearly of opinion that, in the case of a misdemeanor, such previous demand is requisite; and that is sufficient for the determination of the present case. It is reasonable that the law should be so; for if no previous demand is made, how is it possible for a party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost.—*Bayley, J.* The present verdict is quite right, because, even in the execution of criminal process, you must demand admittance before you can justify breaking open the outer door. That point was mentioned in the judgment of the court, in the case of *Burdett v. Abbott*, 14 *East*, 163. *Holroyd and Best, Js.* concurred. R. R.

But by the 29 Car. II. c. 7, s. 6, no person on the Lord's day shall serve or cause to be served any writ, process, or warrant, order or judgment (except in cases of treason, felony, or breach of the peace); but the service thereof shall be void, and the person serving the same shall be liable to answer damages to

Breaking open doors.

Process on a Sunday.

Process discontinued.

the party grieved, in the same manner as if he had done it without any writ, process, warrant, order, or judgment at all. See *Lord's Day*, Vol. III.

It seems to be agreed that every suit, whether civil or criminal, and also every process in such suit against jurors, ought to be properly continued from day to day from its commencement to its conclusion, without any the least gap or chasm; the suffering any such gap or chasm is properly called a *discontinuance*; and the continuing the suit by improper process (as by a *capias* instead of a *distringas*), or by giving the parties an illegal day, is properly called a *miscontinuance*; and if the justices before whom the matter is depending do not come on the day to which it is continued, it is said to be *put without day*, and cannot be revived without a re-summmons on re-attachment. 2 *Haw. c. 27*, s. 89, *et seq.*

Now, process may be discontinued several ways. As, 1. Where the second is not tested on the very same day on which the first is returnable. 2. Where there is a sessions intervening between the teste and the return of a *capias*, that the defendant may not be imprisoned an unreasonable time. But it is no objection to an *exigent* that it is not returnable the next sessions, because it must allow time for five county courts to be holden between its teste and return. 3. Where, after issue or demurrer, the court gives the party a day to a distant sessions, without making any continuance to that immediately following. 4. Where the sessions to which the suit is continued is adjourned, and the suit is not adjourned accordingly. 5. Where any of the parties are described in any continuance of the suit, whether on the roll, or by process by a name or addition variant from those in the original, though only in one letter. 6. Where a *venire* or *distringas* is issued, without any award on the roll to warrant them. 2 *Haw. c. 27*, s. 90, *et seq.*

And it seems generally to be taken as an undoubted principle, that a discontinuance by suffering a total chasm in the proceedings, whether on the roll or in the process, by not giving a fresh continuance instantly upon the determination of the precedent, shall never be aided by any appearance of pleading over; but it is holden by the greater number of authorities that if the original be good, and the defendant present in court, he shall be compelled to answer to such original, let the process whereon he came in, or the execution of it, be never so erroneous or defective, so that it never were discontinued; for the end of process is to compel an appearance, and the end being served, and a legal charge appearing against the defendant no way discontinued, the law will not so far regard a slip in the process, as to let the defendant out of court, in order only to have him brought in again in better form. 2 *Haw. c. 27*, s. 107.

Process stayed by putting in bail.

The processes (as well of *capias* as of outlawry) may be stayed by a *supersedeas* issuing from other justices (out of sessions), testifying that the party hath come before them, and hath found sureties for his appearance to answer to the indictment, or to pay his fine. *Dalt. c. 193.*

And it seemeth that even any one justice may bail persons indicted at the sessions for any offence under the degree of felony; for that the statutes relating specially to the power of justices in granting bail do not in this case seem to take away the power which one justice had before the making of the said statutes. 2 *Haw. c. 15*, s. 54; and see further as to bail, *Bail*, Vol. I.

Commitment.

As to the commitment, see *Commitment*, Vol. I.

II. Of Outlawry for Non-Appearance. (a)

[31 *Eliz. c. 3*; 3 & 4 *Wil. c. 9*; 4 & 5 *Wil. c. 18*, c. 22.]

Process of outlawry.

Judgment of outlawry is given by the coroner, at the fifth county court, upon the party's not appearing to the *exigent*, which is a writ commanding the sheriff to cause the defendant (*exigi*) to be demanded from county court

(a) See the law of outlawry and process fully stated in 1 *Chit. C. L. 347* to 370; *Tidd's Pract. 9th ed.*

to county court until he be outlawed: and such judgment is entered thus: "Therefore, by the judgment of the coroners of our lord the king of the county aforesaid, he is outlawed." 2 Haw. c. 48, s. 21.

The word outlaw (*utlaghe*), *utlagatus*, cometh not immediately from the Latin *lex*, but is derived to us through the Saxon *laga*, which signifieth law. And a person outlawed signifies one that is out of the protection of the king, and out of the aid of the law.

Meaning of the word outlaw.

And a man which is outlawed is called outlawed; but a woman which is outlawed is called *waved*, and not *utlagata*; for that women are not sworn in leets or tornes, as men at the age of twelve or more are; and therefore men may be called *utlagati*—that is, *extra legem positi*, but women are *wavate*—that is, *derelictæ*, left out or not regarded, because they were not sworn to the law; wherein it is to be noted, that of ancient time a man was not said to be within the law that was not sworn to the law, which is intended of the oath of allegiance in the leet. 1 Inst. 122.

A woman outlawed.

Hence it is, that a man under the age of twelve years cannot be outlawed. 1 Inst. 122.

Process of outlawry lies in all indictments of treason or felony, and on all returns of *rescous*; and also on all indictments of trespass with force and arms: and it seems probable that it lies on an indictment of conspiracy or deceit, or any other crime of a higher nature than a trespass with force and arms; but not on any indictment for a crime of an inferior nature. And it seems agreed that it lies not on any action on a statute, unless it be given by such statute, either expressly, as in the case of a *præmunire*, or impliedly, as where a recovery is given by an action wherein such process lay before, as on a writ of trespass for a forcible entry, on the 8 Hen. VI. c. 9, because the statute expressly gives a recovery by such a writ, and such process lies on it by the common law. 2 Haw. c. 27, s. 113.

For what outlawry may be.

By the 31 Eliz. c. 3, in every action personal, wherein any *exigent* shall be awarded out of any court, one writ of proclamation shall be awarded out of the same court, having day of teste and return as the writ of *exigent* shall have, directed and delivered of record to the sheriff where the defendant dwells; which writ of proclamation shall contain the effect of the action; and the sheriff shall make one proclamation in the open county court, and another at the general quarter sessions where the defendant dwells, and another a month at least before the *quinto exactus*, by virtue of the said writ of *exigent*, at or near the most usual door of the church or chapel where the defendant shall be dwelling at the time of the *exigent* awarded, upon a Sunday, immediately after divine service.

Outlawry proclaimed at the sessions.

Also, by the 4 & 5 Wil. III. c. 22, s. 4, upon issuing any *exigent* out of any of the king's courts against any person for a criminal matter, before judgment or conviction, there shall also issue a writ of proclamation, bearing the same teste and return, where the person in the record of proceeding is mentioned to inhabit, according to the form of the 31 Eliz. c. 3, which writ of proclamation shall be delivered to the sheriff three months before the return of the same.

If there are two coroners in a county, or more, one may execute the writ, as in case of an *exigent*, but the return must be in the name of the coroners. 2 Hale, 56.

Return of the outlawry.

And the return of the outlawry must be certain: it must show where the county court was held, and in what county; and must return the day, and year of the king, to every *exactus*. 2 Hale, 203.

Also, the sheriff's name and office must be subscribed to the return of the *exigent*. 2 Hale, 204.

It is said that the justices in sessions cannot issue a *capias utlagatum*, but must return the record of the outlawry into the King's Bench, and the process of *capias utlagatum* shall issue. 2 Hale, 52.

Capias utlagatum.

But in *T. 10 J. 1*, the opinion of all the court of Common Pleas was, that if one be outlawed before the justices of the peace on an indictment of felony, they may award a *capias utlagatum*, and so was the opinion of *Periam*, chief baron, and all the court of Exchequer; for they that have power to award

process of outlawry have also power to award a *capias utlagatum*, as incident to their authority and jurisdiction. 12 *Rep.* 103.

Consequences of outlawry.

If a person be outlawed at the suit of one man, all men shall take advantage of this personal disability. 1 *Inst.* 128.

But such disability abateth not the writ, but only disableth the plaintiff, until he obtain a charter of pardon. 1 *Inst.* 128.

For treason or felony.

Upon outlawry in treason or felony, the offender shall lose and forfeit as much as if he had appeared and judgment had been given against him, as long as the outlawry is in force. 2 *Haw. c.* 48, s. 22.

For an inferior offence.

But the outlawry for a misdemeanor doth not inure as a conviction for the offence, as it doth in cases of treason and felony; but as a conviction of the contempt for not answering, which contempt is therefore punished, not by fine as a conviction for the offence, but by forfeiture of goods and chattels for the contempt. *R. v. Tippen*, 2 *Salk.* 494; see 1 *Mac. & Y.* 196; 1 *Chit. C. L.* 366.

Goods forfeited from the time of issuing the *exigent*.

The very issuing of the *exigent*, in case of treason or felony, gives to the king the forfeiture of the goods of the party from the time of the teste of the writ of *exigent*: and the forfeiture by the *exigent* awarded stands, although the indictment be quashed, until there be a judgment of reversal on a writ of error; because the king's title, being of record, must be awarded by a record. 2 *Hale*, 204, 205.

Lands forfeited from the time of the outlawry.

And as the award of the *exigent* gives the forfeiture of the goods, so the outlawry gives the forfeiture or loss of the lands of the party outlawed; to wit, in case of outlawry of treason, his lands are forfeited to the king, of whomsoever they are held; and, in case of outlawry of felony, to the lord by escheat of whom they are immediately holden. 2 *Hale*, 206.

But the outlawry must be first returned.

But it must be remembered, that the bare judgment of outlawry by the coroner, without the return thereof of record, is no attainder, nor gives any escheat; but it must be returned by the sheriff, with the writ of *exigi facias*, and the return indorsed. 2 *Hale*, 206. Or else it must be removed by *certiorari*; for the judgment given by the coroner in the county court is not matter of record, that court not being a court of record. 1 *Inst.* 288.

And after inquisition found.

And by the outlawry all *personal* chattels are vested in the king by forfeiture; but *real* chattels, or freehold estates, are not vested in the king till after inquisition found. 3 *Salk.* 262.

Whether it is lawful to kill an outlaw.

In ancient times no man could have been outlawed but for felony, the punishment whereof was death; and upon this account an outlawed man was called *wolfeshead*, because he might be put to death by any man, as a wolf, that hateful beast, might. But in the beginning of the reign of King Edward the Third, it was resolved by the judges, for avoiding of inhumanity and of effusion of Christian blood, that it should not be lawful for any man but the sheriff, having lawful warrant, to put to death any man outlawed, though it were for felony; and, if he did, he shall undergo such pain of death as if he had killed any other man: and so the law continues to this day. 1 *Inst.* 28.

Judges of assize may award execution of persons outlawed before justices of the peace.

If a man be indicted before justices of the peace, and thereupon outlawed, and is taken and committed to prison, the justices of gaol-delivery may award execution of this prisoner; for they are constituted to deliver the gaol. 4 *Inst.* 166; *Hale's Sum.* 158; 2 *Hale*, 35.

Clergy in cases of outlawry.

Where clergy is allowable, it shall be as much allowed to one who is outlawed as to one who is convicted by verdict or confession. 2 *Haw. c.* 33, s. 27.

But a statute taking the benefit of clergy from those who shall be found guilty doth not thereby take it from those who are outlawed. 2 *Haw. c.* 33, s. 28.

But by the 3 & 4 Wil. III. c. 9, s. 2, if any person be indicted of any offence, for which, by any former statute, he is excluded from clergy upon conviction, if he shall be outlawed thereupon, he shall not have his clergy. (d)

By any former Statute—Hereby it appears that this extends not to offences made felonies by statutes *subsequent* to this statute. 2 *Haw. c.* 33, s. 49.

Person outlawed cannot be a plaintiff.

Where a person is outlawed, the defendant may show all the matter and outlawry returned of record, and demand judgment if he shall be answered,

(a) See now as to Clergy, *ante*, Vol. I. tit. *Clergy*.

because he is out of the law, to sue an action during the time that he is outlawed. 1 Inst. 128. OUTLAWRY.

It seems to be a good challenge of a juror, that he is outlawed either for a criminal matter, or, as some say, in a personal action; but not a principal challenge, but only to the favour, unless the record of the outlawry be produced. 2 Haw. c. 25, s. 16; c. 43, s. 25. Cannot be a juror.

But it seems clear that outlawry, in a personal action, is not a good exception against a witness, as it is against a juror. 2 Haw. c. 46, s. 21. May be a witness.

An outlawed person may make a will, and have executors or administrators. Cro. El. 575. May make a will.

And an executor may reverse the outlawry of the testator, where he was not lawfully outlawed. 1 Leon. 325.

Outlawry may be reversed several ways: as, by procuring a *supersedeas*, and delivering it to the sheriff before the *quinto exactus*; or by showing any matter apparent on record which makes the outlawry erroneous, as the want of an original; or the omission of process, or want of form in a writ of proclamation, or a return by a person appearing not to be sheriff, or a variance between the original and *exigent*, or other process, or by a misnomer or want of addition. 2 Haw. c. 50. Reversing outlawry.

And upon a writ of error upon an outlawry in felony, the party outlawed must render himself in custody, and pray the allowance of the writ of error in person; and if the outlawry be reversed, he shall be put to answer the indictment. 2 Hale, 209. In what case the party must appear personally to reverse it.

But by the 4 & 5 Wil. III. c. 18, one outlawed, except for treason or felony, need not appear in person to reverse an outlawry, but may appear by attorney. 4 & 5 W. 3, c. 18. 2 Salk. 498. See 3 D. & R. 55.

There is another kind of process out of a court of record against offenders, called *attachment*, which is generally for contempt; which belongs to title *Attachment*, Vol. I. Other kinds of process.

Forms.

(No. 1.)

William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of Westmoreland, greeting. We command you that you omit not, by reason of any liberty in your bailiwick, but that you cause A. O., of _____, in your said county, yeoman, to come before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county, committed at _____, in your said county, on the _____ day of _____ next ensuing, to answer unto us upon certain articles presented against him, the said A. O. And have you there then this precept. Witness, J. P. and K. P., at _____, the _____ day of _____, in the _____ year of our reign. Venire.

And upon this *venire*, if the defendant be returned sufficient, and maketh default, then a *distringas* shall be awarded, and so the same process infinite, until he come in; but if a *nihil habet* be returned at the first, then, after the *venire*, there shall go out a *capias*, *alias*, *pluries*, and *exigent*. Dalt. Sher. 160.

(No. 2.)

William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of _____, greeting. We command you that you omit not, by reason of any liberty in your bailiwick, but that you enter the same, and distrain A. O., of _____, in your county, yeoman, by all his lands and tenements, &c., and that you answer for the issues thereof, &c. and that you have his body before our justices assigned [and so on as before in the venire.] Distringas.

But if a *nihil* (as hath been said) be returned at first upon the *venire facias*, then a *capias* shall issue, thus:—

FORMS.

William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of , greeting. We command you that you omit not, by reason of any liberty in your bailiwick, but that you enter the same, and take A. O., of , in your county, yeoman, if he shall be found in your bailiwick, and him cause to be safely kept, so that you have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, at , in your county, on the day of next ensuing, to answer unto us concerning divers trespasses, contemptes, and offences, of which he is indicted. And have you there then this writ. Witness, J. P. and K. P., at , the day of , in the year of our reign.

At which day, A. S., knight, sheriff of the county aforesaid, returned that he is not found in his bailiwick, and he did not come. Therefore it is commanded as before.

Note.—The cause why the entry is made, and he did not come, is, because the party may appear voluntarily, and so avoid the attachment or arrest of his body.

(No. 3.)

The alias capias. William the Fourth, &c. [as ante, No. 1.] To the sheriff of . We command you, as we before commanded you, that you omit not [as before]. At which day [as before], and he did not come. Therefore it is commanded to the sheriff, as it hath been often commanded, &c.

(No. 4.)

The pluries capias. William the Fourth, &c. [as ante, No. 1.] To the sheriff, &c. We command you, as we have often commanded you, that you omit not [as before]. At which day, A. S., knight, the sheriff aforesaid, returned that the aforesaid A. O. is not found in his bailiwick, and he did not come. Therefore it is commanded, that you cause to be demanded, &c.

(No. 5.)

The exigent. William the Fourth, &c. [as ante, No. 1.] To the sheriff, &c. greeting. We command you that you cause A. O., of , in your county, [yeoman], to be demanded, until, by the law and custom of our kingdom of England, he be outlawed, if he shall not appear; and if he shall appear, that then you take him and cause him to be safely kept, so that you have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in your said county committed, at the general quarter sessions of the peace of your county, next after the feast of next ensuing, to be held wheresoever in the same county the said sessions shall happen to be holden, to answer unto us of divers trespasses, contemptes, and offences, of which he is indicted. And have you then there this writ. Witness, Sir J. P., Baronet, at , in the said county, the day of , in the year of our reign.

At which day, A. S., Knight, sheriff of the county aforesaid, returned that at the county holden at , the day of , in the year of the reign of our lord the king that now is, and so at four other counties then next following there holden, the aforesaid A. O. was demanded, and did not appear. Therefore, by the judgment of the coroner of our said lord the king, in the county aforesaid, he was outlawed.

(No. 6.)

The capias ultigatum. William the Fourth, &c. [as ante, No. 1.] To the sheriff, &c. greeting. We command you that you omit not, by reason of any liberty in your county, but that you take A. O., late of , in your county, labourer, if he shall be found within your county, and him cause safely to be kept, so that you have his body before the keepers of our peace and our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanors, in your county committed, at , the day of , to stand right in our court before our justices aforesaid, upon a certain outlawry against him, the said A. O., promulgated, at our suit, for certain felonies [or, trespasses] whereof he is indicted. And have you then there this writ. Witness, &c.

Proclamation, Proof of, ante, Vol. II. p. 37. Under Riots, ante, Riot.

Profaneness. See Blasphemy, Vol. I.

Procureur. See Accessary, Vol. I. Attempts, Vol. I. p. 292.

Promissory Notes.

[17 Geo. III. c. 30; 37 Geo. III. c. 28, c. 32, c. 61; 43 Geo. III. c. 139; 48 Geo. III. c. 88; 50 Geo. III. c. 35; 53 Geo. III. c. 108; 55 Geo. III. c. 6; 55 Geo. III. c. 184; 56 Geo. III. c. 21; 7 Geo. IV. c. 46; 9 Geo. IV. c. 23, 49.]

BY the 15 Geo. III. c. 51, various provisions were made to restrain the negotiation of promissory notes and inland bills of exchange, under a limited sum, in England; but doubts have arisen as to the power of justices of the peace to hear and determine offences under that act.

By the 48 Geo. III. c. 88, s. 1, the said act of 15 Geo. III. is repealed, and by sect. 2, it is enacted, "that all promissory or other notes, bills of exchange, or drafts, or undertakings in writing, being negotiable or transferable for the payment of any sum or sums of money, or any orders, notes, or undertakings in writing, being negotiable or transferable for the delivery of any goods, specifying their value in money, less than the sum of 20s. in the whole, heretofore made or issued, or which shall hereafter be made or issued, shall, from and after the first day of October, 1808, be and the same are hereby declared to be absolutely void and of no effect; any law, statute, usage, or custom, to the contrary thereof in anywise notwithstanding."

Promissory notes for less than 20s. declared void.

Sect. III. "That if any person or persons shall, after the first day of July, 1808, by any art, device, or means whatsoever, publish or utter any such notes, bills, drafts, or engagements as aforesaid, for a less sum than 20s., or on which less than the sum of 20s. shall be due, and which shall be in anywise negotiable or transferable, or shall negotiate or transfer the same, every such person shall forfeit and pay, for every such offence, any sum not exceeding 20*l.*, nor less than 5*l.*, at the discretion of the justice of the peace who shall hear and determine such offence."

Penalty on persons uttering such notes, 20s. to 5*l.*

Sect. 4. "That it shall be lawful for any justice or justices of the peace, acting for the county, riding, city, or place, within which any offence against this act shall be committed, to hear and determine the same in a summary way, at any time within twenty days after such offence shall have been committed; and such justice or justices, upon any information exhibited or complaint made upon oath in that behalf, shall summon the party accused, and also the witnesses on either side, and shall examine into the matter of fact, and upon due proof made thereof, either by the voluntary confession of the party or by the oath of one or more credible witness or witnesses, or otherwise, (which oath such justice or justices is or are hereby authorized to administer,) shall convict the offender, and adjudge the penalty for such offence."

Justices may determine on such offences within twenty days.

Sect. 5. "That if any person shall be summoned as a witness to give evidence before such justice or justices, either on the part of the prosecutor or the person accused, and shall neglect or refuse to appear at the time or place to be for that purpose appointed, without a reasonable excuse for such his neglect or refusal, to be allowed by such justice or justices, then such person

Penalty on witnesses not attending, 40s.

4A Geo. 3, c. 88.

shall forfeit, for every such offence, the sum of 40s., to be levied and paid in such manner and by such means as are directed for recovery of other penalties under this act."

Sect. 6. "That the justice or justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out, in the manner and form following; (that is to say,)

Form of conviction.

"Be it remembered, that on the day of , in the year of our Lord , A. B., having appeared before me [or, us], one [or more] of his majesty's justices of the peace [as the case may be] for the county, riding, city, or place [as the case may be], and due proof having been made upon oath by one or more credible witnesses or witnesses, or by confession of the party [as the case may be], is convicted of [specifying the offence]. Given under my hand and seal [or, our hands and seals], the day and year aforesaid."

Returnable to the quarter sessions.

Which conviction the said justice or justices shall cause to be returned to the then next general quarter sessions of the peace of the county, riding, city, or place, where such conviction was made, to be filed by the clerk of the peace, to remain and be kept among the records of such county, riding, city, or place."

Copies of convictions.

Sect. 7. "That it shall be lawful for any clerk of the peace for any county, riding, city, or place, and he is hereby required, upon application made to him by any person or persons for that purpose, to cause a copy or copies of any conviction or convictions filed by him under the directions of this act, to be forthwith delivered to such person or persons upon payment of one shilling for every such copy."

Recovery and application of penalties.

Sect. 8. "That the pecuniary penalties and forfeitures hereby incurred and made payable upon any conviction against this act, shall be forthwith paid by the person convicted, as follows: one moiety of the forfeiture to the informer, and the other moiety to the poor of the parish or place where the offence shall be committed; and in case such person shall refuse or neglect to pay the same, or to give sufficient security to the satisfaction of such justice or justices to prosecute any appeal against such conviction, such justice or justices shall, by warrant, under his or their hand and seal, or hands and seals, cause the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale, returning the overplus (if any) to the owner; and which said warrant of distress the said justice or justices shall cause to be made out in the manner and form following; (that is to say,)

Form of the warrant of distress.

"To the Constable, Headborough, or Tithingman of .

"Whereas A. B., of in the county of , is this day convicted before me [or, us] one [or more] of his majesty's justices of the peace [as the case may be] for the county of , [or, for the riding of the county of York, or for the town, liberty, or district of , as the case may be] upon the oath of , or , a credible witness or witnesses [or, by confession of the party, as the case may be] for that the said A. B. hath [here set forth the offence], contrary to the statute in that case made and provided, by reason whereof the said A. B. hath forfeited the sum of , to be distributed as herein is mentioned, which he hath refused to pay: these are, therefore, in his majesty's name, to command you to levy the said sum of by distress of the goods and chattels of him the said A. B.; and if within the space of five days next after such distress by you taken, the said sum, together with the reasonable charges of taking the same, shall not be paid, then that you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale, that you do pay one-half of the said sum of to , of , who informed me [or, us, as the case shall be] of the said offence, and the other half of the said sum of to the overseer of the poor of the parish, township, or place where the offence was committed, to be employed for the benefit of such poor, returning the overplus [if any], upon demand, to the said A. B., the reasonable charges of taking, keeping, and selling the said distress being first deducted; and if sufficient distress cannot be found of the goods and chattels of the said A. B. whereon to levy the said sum of , that then you certify the same to me [or, us, as the case shall be], together with this warrant. Given under my hand and seal [or, our hands and seals], the day of , in the year of our Lord ."

Sect. 9. "That it shall be lawful for such justice or justices to order such offender to be detained in safe custody until return may conveniently be had and made to such warrant of distress, unless the party so convicted shall give sufficient security, to the satisfaction of such justice or justices, for his appearance before the said justice or justices on such day as shall be appointed by the said justice or justices for the day of the return of the said warrant or distress (such day not exceeding five days from the taking of such security); which security the said justice or justices is and are hereby empowered to take by way of recognizance or otherwise."

48 Geo. 3, c. 88.
Security for appearance of party, on return of such warrants.

Sect. 10. "That if, upon such return, no sufficient distress can be had, then, and in such case, the said justice or justices shall and may commit such offender to the common gaol or house of correction of the county, riding, division, or place where the offence shall be committed, for the space of three calendar months, unless the money forfeited shall be sooner paid, or unless or until such offender, thinking him or herself aggrieved by such conviction, shall give notice to the informer that he or she intends to appeal to the justices of the peace at the next general quarter sessions of the peace to be holden for the county, riding, or place wherein the offence shall be committed, and shall enter into recognizance before some justice or justices, with two sufficient sureties conditioned to try such appeal, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions (which notice of appeal, being not less than eight days before the trial thereof, such person so aggrieved is hereby empowered to give); and the said justices at such sessions, upon due proof of such notice being given as aforesaid, and of the entering into such recognizance, shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against, as they the said justices shall think proper; and the determination of such quarter session shall be final, binding, and conclusive to all intents and purposes."

Offenders may be committed for want of distress.

Sect. 11. "That no person shall be disabled from being a witness in any prosecution for any offence against this act, by reason of his being an inhabitant of the parish wherein such offence was committed."

Parishioners may be witnesses.

Sect. 12. "That no proceedings to be had, touching the conviction or convictions of any offender or offenders against this act, shall be quashed for want of form, or be removed by writ of *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

Convictions not removable by certiorari.

Sect. 13. "That if any action or suit shall be commenced against any person or person for any thing done or acted in pursuance of this act, then and in every such case such action or suit shall be commenced or prosecuted within three calendar months after the fact committed, and not afterwards; and the same and every such action or suit shall be brought within the county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act; and if the same shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought or laid in any other place than as aforementioned, then the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for the recovery thereof as any defendant or defendants hath or have in any other cases by law."

Limitation of actions.

Venue.

Treble costs.

By the 17 Geo. III. c. 30, it is enacted, that all promissory or other notes, bills of exchange, or drafts, or undertakings in writing, being negotiable or transferable, for the payment of 20s. or above that sum, and less than 5l., or on which 20s. or above, and less than 5l., shall remain undischarged, shall (1) specify the names and places of abode of the persons respectively to whom, or to whose order, the same shall be made payable; and (2) shall bear date before

Promissory notes, &c. of 20s. and under 5l.

Promissory Notes.

or at the time of drawing or issuing thereof, but not on any day subsequent thereto; and (3) shall be made payable within twenty-one days next after the day of the date thereof; and shall not be transferable or negotiable after the time thereby limited for payment; and (4) every indorsement thereon shall be made before the expiration of that time, and shall bear date at or not before the time of making thereof, and shall specify the name and place of abode of the person to whom or to whose order the money is to be paid; otherwise such note, bill, draught, or undertaking shall be void.

Power of the justices.

And by the 37 Geo. III. c. 32, s. 3, if the person liable to pay the same shall fail to make full payment in money of the sum therein mentioned, or any part thereof [for seven days, 37 Geo. III. c. 61, s. 2], after demand by the holder, one justice, on complaint by such holder, may summon such person refusing to pay; and on his appearance, or in default, on proof on oath of such summons having been duly served, may hear and determine the same, and may award such sum to be paid, together with the costs, not exceeding 20s., as to him shall seem meet; and if not paid upon demand, may levy the same by distress, together with all costs attending such distress.

Which notes, bills, drafts, or undertakings and indorsements, may be in the form or to the effect following:

[Place, day, month, year.] *Twenty-one days after date, I promise to pay to A. B., of , or his order, the sum of , for value received by*
Witness, C. D.
E. F.

Indorsement toties quoties.

[Place, day, month, year.] *Pay the contents to G. H., of , or his order.*
Witness, A. B.
J. K.

If it is upon advice, say, *Twenty-one days after date, pay to A. B., of , or his order, the sum of , value received, as advised by*
 C. D. (a).

[The publishing, uttering, or negotiating notes, bills of exchange, drafts, or undertakings, contrary to this act, is prohibited and restrained under the like penalties as for offences against the former act; so that the impracticability of recovering the said penalties is alike in both cases.]

Stamp duties.

By the 55 Geo. III. c. 184, the stamp-duties upon bills of exchange, drafts, promissory notes, &c., imposed by former acts, were repealed, and the under-mentioned duties imposed in lieu thereof:

Inland BILL OF EXCHANGE, (a) draft, or order to the bearer, or to order, either on demand or otherwise, not exceeding two months after date, or sixty days after sight, of any sum of money,

<i>Amounting to 40s. and not exceeding</i>	<i>5l. 5s.</i>	<i>£0</i>	<i>1</i>	<i>0</i>
<i>Exceeding 5l. 5s. and not exceeding</i>	<i>20l.</i>	<i>0</i>	<i>1</i>	<i>6</i>
<i>Exceeding 20l. and not exceeding</i>	<i>30l.</i>	<i>0</i>	<i>2</i>	<i>0</i>
<i>Exceeding 30l. and not exceeding</i>	<i>50l.</i>	<i>0</i>	<i>2</i>	<i>6</i>
<i>Exceeding 50l. and not exceeding</i>	<i>100l.</i>	<i>0</i>	<i>3</i>	<i>6</i>
<i>Exceeding 100l. and not exceeding</i>	<i>200l.</i>	<i>0</i>	<i>4</i>	<i>6</i>
<i>Exceeding 200l. and not exceeding</i>	<i>300l.</i>	<i>0</i>	<i>5</i>	<i>0</i>
<i>Exceeding 300l. and not exceeding</i>	<i>500l.</i>	<i>0</i>	<i>6</i>	<i>0</i>
<i>Exceeding 500l. and not exceeding</i>	<i>1000l.</i>	<i>0</i>	<i>8</i>	<i>6</i>
<i>Exceeding 1000l. and not exceeding</i>	<i>2000l.</i>	<i>0</i>	<i>12</i>	<i>6</i>
<i>Exceeding 2000l. and not exceeding</i>	<i>3000l.</i>	<i>0</i>	<i>15</i>	<i>0</i>
<i>Exceeding 3000l.</i>		<i>1</i>	<i>5</i>	<i>0</i>

(a) By the 37 Geo. III. c. 28, after the 2nd of March, 1797, all notes issued by the Bank of England, payable to bearer, for less than 5l., shall be valid.

(b) As to the construction to be put on this part of the schedule as to bills, &c., see *Chit. Stamp Laws*, 138, n., and cases there collected.

Promissory Notes.

247

88 Geo. 3, c. 184.

Inland BILL OF EXCHANGE, draft, or order for the payment to the bearer, or to order, at any time exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40s. and not exceeding 5l. 5s.	£0	1	6
Exceeding 5l. 5s. and not exceeding 20l.	0	2	0
Exceeding 20l. and not exceeding 30l.	0	3	6
Exceeding 30l. and not exceeding 50l.	0	3	6
Exceeding 50l. and not exceeding 100l.	0	4	6
Exceeding 100l. and not exceeding 200l.	0	5	0
Exceeding 200l. and not exceeding 300l.	0	6	0
Exceeding 300l. and not exceeding 500l.	0	8	6
Exceeding 500l. and not exceeding 1000l.	0	12	6
Exceeding 1000l. and not exceeding 2000l.	0	15	0
Exceeding 2000l. and not exceeding 3000l.	1	5	0
Exceeding 3000l.	1	10	0

Inland BILL, draft, or order for the payment of any sum of money, though not made payable to the bearer, or to order, if the same shall be delivered to the payee, or some person on his or her behalf

The same duty as on a bill of exchange for the like sum, payable to bearer or order.

Inland BILL, draft, or order for the payment of any sum of money, weekly, monthly, or at any other stated periods, if made payable to the bearer, or to order, or if delivered to the payee, or some person on his or her behalf, where the total amount of the money thereby made payable shall be specified therein, or can be ascertained therefrom

The same duty as on a bill payable to bearer or order on demand for a sum equal to such total amount.

And where the total amount of the money thereby made payable shall be indefinite

The same duty as on a bill on demand for the sum therein expressed only.

And the following instruments shall be deemed and taken to be inland bills, drafts, or orders, for the payment of money, within the intent and meaning of this schedule; videlicet:

All drafts or orders for the payment of any sum of money by a bill or promissory note, or for the delivery of any such bill or note in payment or satisfaction of any sum of money; where such drafts or orders shall require the payment or delivery to be made to the bearer, or to order, or shall be delivered to the payee, or some person on his or her behalf.

All receipts given by any banker or bankers, or other person or persons, for money received, which shall entitle, or be intended to entitle, the person or persons paying the money, or the bearer of such receipts, to receive the like sum from any third person or persons.

And all bills, drafts, or orders, for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, if the same shall be made payable to the bearer, or to order, or if the same shall be delivered to the payee, or some person on his or her behalf.

Foreign BILL OF EXCHANGE (or bill of exchange drawn in, but payable out of Great Britain), if drawn singly and not in a set

The same duty as on an inland bill of the same amount and tenor.

Foreign BILLS OF EXCHANGE, drawn in sets, according to the custom of merchants, for every bill of each set, where the sum made payable thereby shall not exceed 100l.

Exceeding 100l. and not exceeding 200l.	£0	1	6
Exceeding 200l. and not exceeding 500l.	0	3	0
	0	4	0

53 Geo. 3, c. 184. FOREIGN BILLS OF EXCHANGE—(Continuance.)

Exceeding 500l. and not exceeding 1000l.	£0 5 0
Exceeding 1000l. and not exceeding 2000l.	0 7 6
Exceeding 2000l. and not exceeding 3000l.	0 10 0
Exceeding 3000l.	0 15 0

Exemptions from the preceding and all other Stamp-Duties.

All bills of exchange, or bank post-bills, issued by the governor and company of the Bank of England.

All bills, orders, remittance bills, and remittance certificates, drawn by commissioned officers, masters, and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the act passed in the 35th year of his majesty's reign, for the more expeditious payment of the wages and pay of certain officers belonging to the navy.

All bills drawn pursuant to any former act or acts of Parliament by the commissioners of the navy, or by the commissioners for victualling the navy, or by the commissioners for managing the transport service, and for taking care of sick and wounded seamen, upon, and payable by the treasurer of the navy.

All drafts or orders for the payment of any sum of money to the bearer on demand, and drawn upon any banker or bankers, or any person or persons acting as a banker, who shall reside or transact the business of a banker, within ten miles (c) of the place where such drafts or orders shall be issued, provided such place shall be specified in such drafts or orders; and provided the same shall bear date on or before the day on which the same shall be issued; and provided the same do not direct the payment to be made by bills or promissory notes.

All bills, for the pay and allowances of his majesty's land forces, or for other expenditures liable to be charged in the public regimental or district accounts, which shall be drawn according to the forms now prescribed or hereafter to be prescribed by his majesty's orders, by the paymasters of regiments or corps, or by the chief paymaster, or deputy paymaster, and accountant of the army depot, or by the paymasters of recruiting districts, or by the paymasters of detachments, or by the officer or officers authorized to perform the duties of the paymastership during a vacancy, or the absence, suspension, or incapacity of any such paymaster as aforesaid; save and except such bills as shall be drawn in favour of contractors or others, who furnish bread or forage to his majesty's troops, and who by their contracts or agreements shall be liable to pay the stamp duties on the bills given in payment for the articles supplied by them.

PROMISSORY NOTE, (d) for the payment, to the bearer on demand, of any sum of money,

Not exceeding 1l. 1s.	£0 0 5
Exceeding 1l. 1s. and not exceeding 2l. 2s.	0 0 10
Exceeding 2l. 2s. and not exceeding 5l. 5s.	0 1 3
Exceeding 5l. 5s. and not exceeding 10l.	0 1 9
Exceeding 10l. and not exceeding 20l.	0 2 0
Exceeding 20l. and not exceeding 30l.	0 3 0
Exceeding 30l. and not exceeding 50l.	0 5 0
Exceeding 50l. and not exceeding 100l.	0 8 6

Which said notes may be re-issued, after the payment thereof, as often as shall be thought fit.

PROMISSORY NOTE for the payment, in any other manner than to the bearer on demand, but not exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40s. and not exceeding 5l. 5s.	£0 1 0
Exceeding 5l. 5s. and not exceeding 20l.	0 1 6
Exceeding 20l. and not exceeding 30l.	0 2 0
Exceeding 30l. and not exceeding 50l.	0 2 6
Exceeding 50l. and not exceeding 100l.	0 3 6

These notes are not to be re-issued after being once paid.

(c) By the 9 Geo. IV. c. 49, s. 15, promissory notes, see *Chit. Stamp Law*, this is extended to fifteen miles.

(d) As to the construction to be put also 9 B. & Cres. 409; 5 Bing. 501. upon this part of the schedule relating to

Promissory Notes.

249

55 Geo. 3, c. 184.

PROMISSORY NOTE for the payment, either to the bearer on demand, or in any other manner than to the bearer on demand, but not exceeding two months after date, or sixty days after sight, of any sum of money,

Exceeding 100 <i>l.</i> and not exceeding 200 <i>l.</i>	£0 4 6
Exceeding 200 <i>l.</i> and not exceeding 300 <i>l.</i>	0 5 0
Exceeding 300 <i>l.</i> and not exceeding 500 <i>l.</i>	0 6 0
Exceeding 500 <i>l.</i> and not exceeding 1000 <i>l.</i>	0 8 6
Exceeding 1000 <i>l.</i> and not exceeding 2000 <i>l.</i>	0 12 6
Exceeding 2000 <i>l.</i> and not exceeding 3000 <i>l.</i>	0 15 0
Exceeding 3000 <i>l.</i>	1 5 0

The notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment to the bearer or otherwise, at any time exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40 <i>s.</i> and not exceeding 5 <i>l.</i> 5 <i>s.</i>	£0 1 6
Exceeding 5 <i>l.</i> 5 <i>s.</i> and not exceeding 20 <i>l.</i>	0 2 0
Exceeding 20 <i>l.</i> and not exceeding 30 <i>l.</i>	0 2 6
Exceeding 30 <i>l.</i> and not exceeding 50 <i>l.</i>	0 3 6
Exceeding 50 <i>l.</i> and not exceeding 100 <i>l.</i>	0 4 6
Exceeding 100 <i>l.</i> and not exceeding 200 <i>l.</i>	0 5 0
Exceeding 200 <i>l.</i> and not exceeding 300 <i>l.</i>	0 6 0
Exceeding 300 <i>l.</i> and not exceeding 500 <i>l.</i>	0 8 6
Exceeding 500 <i>l.</i> and not exceeding 1000 <i>l.</i>	0 12 6
Exceeding 1000 <i>l.</i> and not exceeding 2000 <i>l.</i>	0 15 0
Exceeding 2000 <i>l.</i> and not exceeding 3000 <i>l.</i>	1 5 0
Exceeding 3000 <i>l.</i>	1 10 0

These notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment of any sum of money by instalments, or for the payment of several sums of money at different days or times, so that the whole of the money to be paid shall be definite and certain

The same duty as on a promissory note, payable in less than two months after date, for a sum equal to the whole amount of the money to be paid.

And the following instruments shall be deemed and taken to be promissory notes, within the intent and meaning of this schedule: viz.

All notes, promising the payment of any sum or sums of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; if the same shall be made payable to the bearer, or to order, and if the same shall be definite and certain, and not amount in the whole to 20*l.*

And all receipts for money deposited in any bank, or in the hands of any banker or bankers, which shall contain any agreement or memorandum, importing that interest shall be paid for the money so deposited.

Exemptions from the Duties on Promissory Notes.

All notes, promising the payment of any sum or sums of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; where the same shall not be made payable to the bearer or to order; and also where the same shall be made payable to the bearer or to order, if the same shall amount to 20*l.* or be indefinite.

And all other instruments, bearing in any degree the form or style of promissory notes, but which in law shall be deemed special agreements, except those hereby expressly directed to be deemed promissory notes.

But such of the notes and instruments here exempted from the duty on promissory notes shall, nevertheless, be liable to the duty which may attach thereon, as agreements or otherwise.

55 Geo. 3, s. 184.

*Exemptions from the preceding and all other Stamp-Duties.**All promissory notes for the payment of money, issued by the governor and company of the Bank of England.***PROTEST of any Bill of Exchange or Promissory Note for any sum of money,**

Not amounting to 20 <i>l</i> .	£0	0
Amounting to 20 <i>l</i> . and not amounting to 100 <i>l</i> .	0	3 0
Amounting to 100 <i>l</i> . and not amounting to 500 <i>l</i> .	0	5 0
Amounting to 500 <i>l</i> . or upwards	0	10 0

By the 55 Geo. III. c. 184, s. 3, the new duties are placed under the care of the commissioners for the stamp duties; and by s. 8 the powers and provisions of former acts shall be put in execution with regard to these duties.

By sect. 13, for the more effectually preventing of frauds and evasions of the duties hereby granted on bills of exchange, drafts, or orders for the payment of money, under colour of the exemption in favour of drafts or orders upon bankers, or persons acting as bankers, contained in the schedule hereunto annexed, it is enacted, "that if any person or persons shall, after the 31st day of August, 1815, make and issue, or cause to be made and issued, any bill, draft, or order, for the payment of money to the bearer on demand, upon any banker or bankers, or any person or persons acting as a banker or bankers, which shall be dated on any day subsequent to the day on which it shall be issued, or which shall not truly specify and express the place where it shall be issued, or which shall not in every respect fall within the said exemption, unless the same shall be duly stamped as a bill of exchange according to this act, the person or persons so offending shall, for every such bill, draft, or order, forfeit the sum of 100*l*.; and if any person or persons shall knowingly receive or take any such bill, draft, or order, in payment of, or as a security for the sum therein mentioned, he, she, or they shall, for every such bill, draft, or order, forfeit the sum of 20*l*.; and if any banker or bankers, or any person or persons acting as a banker, upon whom any such bill, draft, or order, shall be drawn, shall pay, or cause or permit to be paid, the sum of money therein expressed, or any part thereof, knowing the same to be postdated, or knowing that the place where it was issued is not truly specified and set forth therein, or knowing that the same does not in any other respect fall within the said exemption, then the banker or bankers, or person or persons so offending, shall, for every such bill, draft, or order, forfeit the sum of 100*l*., and moreover shall not be allowed the money so paid or any part thereof, in account against the person or persons by or for whom such bill, draft, or order, shall be drawn, or his, her, or their executors or administrators, or his, her, or their assignees or creditors in case of bankruptcy or insolvency, or any other person or persons claiming under him, her, or them."

Issuing unstamped drafts on bankers, without specifying place where issued, or if post-dated.

Penalty.
Receiving, &c.
such drafts.

Penalty.
Bankers paying
them.

Penalty.

Making, &c.
bills of exchange,
&c. not duly
stamped.

Penalty.

Promissory notes
to bearer on de-
mand, not exceed-
ing 100*l*. re-
issued by original
makers, without
further duty.

Such notes not
liable to further
duty, though re-
issued by certain
persons not
strictly the origi-
nal makers.

Sect. 11. "That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause or permit to be accepted or paid, any bill of exchange, draft, or order, or promissory note for the payment of money, liable to any of the duties imposed by this act, without the same being duly stamped for denoting the duty hereby charged thereon, he, she, or they shall, for every such bill, draft, order, or note, forfeit the sum of 50*l*."

Sect. 14. "That from and after the 31st day of August, 1815, it shall be lawful for any banker or bankers, or other person or persons, who shall have made and issued any promissory notes for the payment to the bearer on demand, of any sum of money not exceeding 100*l*. each, duly stamped according to the directions of this act, to re-issue the same from time to time, after payment thereof, as often as he, she, or they, shall think fit, without being liable to pay any further duty in respect thereof; and that all promissory notes, so to be re-issued as aforesaid, shall be good and valid, and as available in the law, to all intents and purposes, as they were upon the first issuing thereof."

Sect. 15. "That no promissory note for the payment to the bearer on demand, of any sum of money not exceeding 100*l*., which shall have been made and issued by any bankers or other persons in partnership, and for which the proper stamp-duty shall have been once paid according to the provisions of

this act, shall be deemed liable to the payment of any further duty, although the same shall be re-issued by and as the note of some only of the persons who originally made and issued the same, or by and as the note of any one or more of the persons who originally made and issued the same, and any other person or persons in partnership with him or them jointly; nor although such note, if made payable at any other than the place where drawn, shall be re-issued with any alteration therein only of the house or place at which the same shall have been at first made payable."

55 Geo.-2, c. 184.

Sect. 16. "That all promissory notes for the payment to the bearer on demand, of any sum of money, which shall have been actually and *bond fide* issued and in circulation, before or upon the said 31st day of August, 1815, duly stamped according to the aforesaid act of the forty-eighth year of his majesty's reign, and which shall then be re-issuable within the intent and meaning of that act, or of an act passed in the fifty-third year of his majesty's reign, for altering, explaining, and amending the said former act, with regard to the duties on re-issuable promissory notes, shall continue to be re-issuable until the expiration of three years from the date thereof respectively, but not afterwards, without payment of any further duty for the same; and if any banker or bankers, or other person or persons, shall at any time after the said 31st day of August, issue or cause to be issued for the first time, any promissory note for the payment of money to the bearer on demand, bearing date before or upon that day, he, she, or they, shall, for every such promissory note, forfeit the sum of 50*l*."

Notes re-issuable under 68 Geo. 3, c. 140, or 53 Geo. 3, c. 108, to continue re-issuable till end of three years from date.

In what case bankers issuing promissory notes.

Penalty.

Sect. 18. "That from and after the 31st day of August, 1815, it shall not be lawful for any banker or bankers, or other person or persons, to issue any promissory note for the payment of money to the bearer on demand, liable to any of the duties imposed by this act, with the date printed therein; and if any banker or bankers, or other person or persons, shall issue or cause to be issued any such promissory note with the date printed therein, he or they shall, for every promissory note so issued, forfeit the sum of 50*l*."

Issuing notes in future with printed dates.

Penalty.

Sect. 19. "That all promissory notes hereby allowed to continue re-issuable for a limited period, but not afterwards, shall upon the payment thereof at any time after the expiration of such period, and all promissory notes, bills of exchange, drafts, or orders for money, not hereby allowed to be re-issued, shall, upon any payment thereof, be deemed and taken respectively to be thereupon wholly discharged, vacated, and satisfied, and shall be no longer negotiable or available in any manner whatsoever, but shall be forthwith cancelled by the person or persons paying the same; and if any person or persons shall re-issue or cause or permit to be re-issued, any promissory note hereby allowed to be re-issued for a limited period as aforesaid, at any time after the expiration of the term or period allowed for that purpose; or if any person or persons shall re-issue or cause or permit to be re-issued any promissory note, bill of exchange, draft, or order for money, not hereby allowed to be re-issued at any time after the payment thereof; or if any person or persons paying or causing to be paid any such note, bill, draft, or order as aforesaid, shall refuse or neglect to cancel the same, according to the directions of this act, then and in either of those cases, the person or persons so offending shall for every such note, bill, draft, or order as aforesaid, forfeit the sum of fifty pounds; and in case of any such note, bill, draft, or order, being re-issued contrary to the intent and meaning of this act, the person or persons re-issuing the same, or causing or permitting the same to be re-issued, shall also be answerable and accountable to his majesty, his heirs, and successors, for a further duty in respect of every such note, bill, draft, or order, of such and the same amount as would have been chargeable thereon, in case the same had been then issued for the first time, and so from time to time as often as the same shall be so re-issued; which further duty shall and may be sued for and recovered accordingly, as a debt to his majesty, his heirs and successors; and if any person or persons shall receive or take any such note, bill, draft, or order, in payment of, or as a security for, the sum therein expressed, knowing the same to be re-issued contrary to the intent and meaning of this act, he, she, or they shall, for every such note, bill, draft, or order, forfeit the sum of 20*l*."

Notes re-issuable for limited period cancelled on payment afterwards; and notes not re-issuable cancelled immediately on payment.

Re-issuing notes, &c.

Not cancelling notes, &c.

Penalty.

Re-issuing contrary to act, farther duty.

Taking notes, &c. re-issued contrary to act.

Penalty.

5 Geo. 3, c. 184.

Notes and bills of Bank of England exempt from stamp-duty.

Sect. 20. "That all promissory notes and bank post bills, which shall be issued by the governor and company of the Bank of England, from and after the said 31st day of August, 1815, shall be freed and exempted from all the duties hereby granted; and that it shall be lawful for the said governor and company to re-issue any of their notes after payment thereof, as often as they shall think fit."

48 Geo. 3, c. 149, s. 15, made to cease.

Sect. 21. "That the composition payable by the said governor and company of the Bank of England for the stamp-duties on their promissory notes and bank post bills, under the aforesaid act of the forty-eighth year of his majesty's reign, shall cease from the 5th day of April last; and that the said governor and company shall deliver to the said commissioners of stamps, within one calendar month after the passing of this act, and afterwards on the 1st day of May in every year, whilst the present stamp-duties shall remain in force, a just and true account, verified by the oath of their chief accountant, of the amount or value of all their promissory notes and bank post bills in circulation, on some given day in every week, for the space of three years preceding the 6th day of April in the year in which the account shall be delivered, together with the average amount or value thereof according to such account; and that the said governor and company shall pay into the hands of the receiver-general of the stamp-duties in Great Britain, as a composition for the duties which would otherwise have been payable for their promissory notes and bank post bills issued within the year, reckoning from the 5th day of April preceding the delivery of the said account, the sum of 3,500*l.* for every million, and after that rate for half a million, but not for a less sum than half a million, of the said average amount or value of their said notes and bank post bills in circulation; and that one half part of the sum so to be ascertained as aforesaid for each year's composition, shall be paid on the 1st day of October, and the other half on the 1st day of April next after the delivery of such account as aforesaid." (e)

Account of notes, &c.

Bank of England to pay composition for duties on bills and notes.

Composition made, when bank resume cash payments.

Sect. 22. "That upon the said governor and company resuming their payments in cash, a new arrangement for the composition for the stamp-duties, payable on their promissory notes and bank post bills, shall be submitted to Parliament."

Re-issuable notes not issued by bankers or others, without license.

Sect. 24. "That from and after the 10th day of October, 1815, it shall not be lawful for any banker or bankers, or other person or persons (except the governor and company of the Bank of England), to issue any promissory notes for money payable to the bearer on demand, hereby charged with a duty and allowed to be re-issued as aforesaid, without taking out a license yearly for that purpose; which license shall be granted by two or more of the said commissioners of stamps for the time being, or by some person authorized in that behalf by the said commissioners, or the major part of them, on payment of the duty charged thereon in the schedule hereunto annexed; and a separate and distinct (f) license shall be taken out, for or in respect of every town or place where any such promissory notes shall be issued by, or by any agent or agents for or on account of any banker or bankers or other person or persons; and every such license shall specify the proper name or names and place or places of abode of the person or persons, or the proper name and description of any body corporate, to whom the same shall be granted, and also the name of the town or place where, and the name of the bank, as well as the partnership, or other name, style, or firm under which such notes are to be issued; and where any such license shall be granted to persons in partnership, the same shall specify and set forth the names and places of abode of all the persons concerned in the partnership, whether all their names shall appear on the promissory notes to be issued by them, or not; and in default thereof such license shall be absolutely void; and every such license which shall be granted between the 10th day of October and the 11th day of November in any year, shall be dated on the 11th day of October; and every such license which shall

Regulations respecting licenses.

(e) See, as to other bankers, the 7 Geo. 4, c. 46, s. 16.

(f) See the 9 Geo. 4, c. 23, s. 2, 4, & 7, post, 253.

be granted at any other time, shall be dated on the day on which the same shall be granted; and every such license respectively shall have effect and continue in force from the day of the date thereof until the 10th day of October following, both inclusive."

9 Geo. 4, c. 23.

Sect. 26. "That where any banker or bankers, person or persons, applying for a license under this act, would, under the said act of the forty-eighth (g) year of his majesty's reign, have been entitled to have two or more towns or places in England included in one license, if this act had not been made, such banker or bankers, person or persons, shall have and be entitled to the like privilege under this act."

In what case several towns included in one license.

Sect. 27. "That the banker or bankers, or other person or persons applying for any such license as aforesaid, shall produce and leave with the proper officer a specimen of the promissory notes proposed to be issued by him or them, to the intent that the license may be framed accordingly; and if any banker or bankers, or other person or persons, (except the said Governor and Company of the Bank of England,) shall issue, or cause to be issued, by any agent, any promissory note for money payable to the bearer on demand, hereby charged with a duty, and allowed to be re-issued as aforesaid, without being licensed so to do in the manner aforesaid, or at any other town or place, or under any other name, style, or firm, than shall be specified in his or their license, the banker or bankers, or other person or persons so offending, shall, for every such offence, forfeit the sum of 100*l*."

On applying for licenses, specimens of notes delivered.
Issuing notes without license.

Penalty.

Sect. 28. "That where any such license as aforesaid shall be granted to any persons in partnership, the same shall continue in force for the issuing of promissory notes duly stamped, under the name, style, or firm therein specified, until the tenth day of October inclusive, following the date thereof, notwithstanding any alteration in the partnership."

Licenses to continue in force notwithstanding alteration in partnerships.

Sect. 29. "That, from and after the passing of this act, promissory notes for the payment of money to the bearer on demand, made out of Great Britain, or purporting to be made out of Great Britain, or purporting to be made by or on the behalf of any person or persons resident out of Great Britain, shall not be negotiable or be negotiated, or circulated or paid in Great Britain, whether the same shall be made payable in Great Britain or not, unless the same shall have paid such duty, and be stamped in such manner, as the law requires for promissory notes of the like tenor and value made in Great Britain; and if any person or persons shall circulate or negotiate, or offer in payment, or shall receive or take in payment any such promissory note, or shall demand or receive payment of the whole or any part of the money mentioned in such promissory note, from or on account of the drawer thereof, in Great Britain, the same not being duly stamped as aforesaid; or if any person or persons in Great Britain shall pay, or cause to be paid, the sum of money expressed in any such note, not being duly stamped as aforesaid, or any part thereof, either as drawer thereof, or in pursuance of any nomination or appointment for that purpose therein contained, the person or persons so offending shall, for every such promissory note, forfeit the sum of 20*l*.; provided always, that this clause shall not extend to promissory notes made and payable only in Ireland."

Promissory notes made out of Great Britain not negotiable unless stamped.

Circulating, &c. such notes, &c.

Penalty.

Proviso for Ireland.

As to counterfeiting or forging stamps, see *post*, **Stamps**.

As to using, &c. bills, notes, &c. before stamped, see *post*, **Stamps**.

Forging and counterfeiting stamps.
Forgery.

As to the forgery of promissory notes, see 1 Wil. IV. c. 64, s. 3, 4, 17, 18, and 19; *Fitzgibbon*, Vol. II.

The 50 Geo. III. c. 35, s. 13, relates to spoiled stamps; but as justices of peace have no jurisdiction in such matters, the act is not here inserted.

50 Geo. 3, c. 35.

By the 9 Geo. IV. c. 23, reciting, that "whereas it is expedient to permit all persons carrying on the business of bankers in England (except within the city of London, or within three miles thereof), to issue their promissory notes payable to bearer on demand, or to order, within a limited period after sight, and

9 Geo. 4, c. 23.

(A) The 7 Geo. 4, c. 46, s. 17, and 9 Geo. 4, c. 23, s. 3, require no more than four licenses for any number of places.

9 Geo. 4, c. 23.

Certain bankers may issue unstamped promissory notes and bills of exchange subject to the regulations herein mentioned.

Commissioners of stamps may grant licenses to issue unstamped notes and bills.

A separate license to be taken for every place where such notes or bills shall be issued, but not to exceed four licenses for any number of such places.

Bankers licensed to issue unstamped notes or bills, shall give security, by bond, for the due performance of the conditions herein contained.

to draw bills of exchange payable to order on demand, or within a limited period after sight or date, on unstamped paper, upon payment of a composition in lieu of the stamp-duties which would otherwise be payable upon such notes and bills respectively, and subject to the regulations hereinafter mentioned ;" it is enacted, " that from and after the first day of July, 1828, it shall be lawful for any person or persons, carrying on the business of a banker or bankers in England, (except within the city of London, or within three miles thereof,) having first duly obtained a license for that purpose, and given security by bond in manner hereinafter mentioned, to issue, on unstamped paper, promissory notes for any sum of money amounting to 5*l.* or upwards, expressed to be payable to the bearer on demand, or to order, at any period not exceeding seven days after sight ; and also to draw and issue, on unstamped paper, bills of exchange, expressed to be payable to order on demand, or at any period not exceeding seven days after sight, or twenty-one days after the date thereof ; provided such bills of exchange be drawn upon a person or persons carrying on the business of a banker or bankers in London, Westminster, or the borough of Southwark, or provided such bills of exchange be drawn by any banker or bankers, at a town or place where he or they shall be duly licensed to issue unstamped notes and bills under the authority of this act, upon himself or themselves, or his or their copartner or copartners, payable at any other town or place where such banker or bankers shall also be duly licensed to issue such notes and bills as aforesaid."

Sect. 2. " That it shall be lawful for any two or more of the commissioners of stamps to grant to all persons carrying on the business of bankers in England (except as aforesaid), who shall require the same, licenses authorizing such persons to issue such promissory notes, and to draw and issue such bills of exchange as aforesaid, on unstamped paper ; which said licenses shall be and are hereby respectively charged with a stamp-duty of 3*0l.* for every such license."

Sect. 3. " That a separate license shall be taken out in respect of every town or place where any such unstamped promissory notes or bills of exchange as aforesaid shall be issued or drawn : provided always, that no person or persons shall be obliged to take out more than four licenses in all for any number of towns or places in England ; and in case any person or persons shall issue or draw such unstamped notes or bills as aforesaid, at more than four different towns or places, then, after taking out three distinct licenses for three of such towns or places, such person or persons shall be entitled to have all the rest of such towns or places included in a fourth license."

Sect. 7. " That before any license shall be granted to any person or persons to issue or draw any unstamped promissory notes or bills of exchange under the authority of this act, such person or persons shall give security, by bond, to his majesty, his heirs, and successors, with a condition, that if such person or persons do and shall from time to time enter, or cause to be entered in a book or books to be kept for that purpose, an account of all such unstamped promissory notes and bills of exchange as he or they shall so as aforesaid issue or draw, specifying the amount or value thereof respectively, and the several dates of the issuing thereof ; and in like manner, also, a similar account of all such promissory notes as, having been issued as aforesaid, shall have been cancelled, and the dates of the cancelling thereof, and of all such bills of exchange as, having been drawn or issued as aforesaid, shall have been paid, and the dates of the payment thereof ; and do and shall from time to time, when thereunto requested, produce and show such accounts to, and permit the same to be examined and inspected by the said commissioners of stamps, or any officer of stamps appointed under the hands and seals of the said commissioners for that purpose ; and also do and shall deliver to the said commissioners of stamps half-yearly, (that is to say,) within fourteen days after the first day of January and the first day of July in every year, a just and true account in writing, verified upon the oaths or affirmations (which any justice of the peace is hereby empowered to administer), to the best of the knowledge and belief of such person or persons, and of his or their cashier, accountant, or chief clerk, or of such of them as the said commissioners shall require, of the amount or value

of all unstamped promissory notes and bills of exchange, issued under the provisions of this or any former act, in circulation within the meaning of this act on a given day, (that is to say,) on Saturday in every week, for the space of half a year prior to the half-yearly day immediately preceding the delivery of such account, together with the average amount or value of such notes and bills so in circulation, according to such account; and also do and shall pay, or cause to be paid to the receiver-general of stamp-duties in Great Britain, or to some other person duly authorized by the commissioners of stamps to receive the same, as a composition for the duties which would otherwise have been payable for such promissory notes and bills of exchange issued or in circulation during such half year, the sum of 3s. 6d. for every 100*l.*, and also for the fractional part of 100*l.* of the said average amount or value of such notes and bills in circulation, according to the true intent and meaning of this act; and on due performance thereof such bond shall be void, but otherwise the same shall be and remain in full force and virtue."

9 Geo. 4, c. 22.

Sec. 8. "That every unstamped promissory note payable to the bearer on demand, issued under the provisions of this act, shall, for the purpose of payment of duty, be deemed to be in circulation from the day of the issuing to the day of the cancelling thereof, both days inclusive, excepting nevertheless the period during which such note shall be in the hands of the banker or bankers who first issued the same, or by whom the same shall be expressed to be payable; and that every unstamped promissory note payable to order, and every unstamped bill of exchange so as aforesaid issued, shall, for the purpose aforesaid, be deemed to be in circulation from the day of the issuing to the day of the payment thereof, both days inclusive: provided always, that every such promissory note payable to order, and bill of exchange as aforesaid, which shall be paid in less than seven days from the issuing thereof, shall, for the purpose aforesaid, be included in the account of notes and bills in circulation on the Saturday next after the day of the issuing thereof, as if the same were then actually in circulation."

For what period notes and bills are to be deemed in circulation.

Sec. 12. "That if any person or persons, who shall be licensed under the provisions of this act, shall draw or issue, or cause to be drawn or issued, upon unstamped paper, any promissory note payable to order, or any bill of exchange which shall bear date subsequent to the day on which it shall be issued, the person or persons so offending shall, for every such note or bill so drawn or issued, forfeit the sum of 100*l.*"

Penalty for post-dating unstamped notes or bills.

See further, *Stamps, post.*

Prophecies.

[5 Eliz. c. 15.]

BY the 5 *Eliz.* c. 15, if any person shall advisedly and directly advance, 5 *Eliz.* c. 15. publish, and set forth by writing, printing, signing, or any other open speech or deed, any fond, fantastical, or false prophecy, upon or by the occasion of any arms, fields, beasts, badges, or such other like things accustomed in arms, cognizances, or signets, or upon or by reason of any time, year, or day, name, bloodshed, or war, to the intent thereby to make any rebellion, insurrection, disension, loss of life, or other disturbance in the realm; and shall be convicted thereof before a judge of assize, or justice of the peace, within six months after the offence committed, he shall for the first offence be imprisoned for a year, and forfeit 10*l.*; and for the second offence shall be imprisoned for life, and forfeit his goods: half the forfeitures to the king, and half to him who shall sue for them in any court of record.

The intent of this act was, to abolish certain foolish and superstitious notions which prevailed in the times of ignorance, as were set forth in a statute made in the 33 *Hen. VIII.* c. 14, reciting—Where divers and sundry persons, making their foundation by prophecies, have taken upon them a

PROPHECIES. knowledge (as it were) what shall become of them which bear in their arms, cognizance, or badge, fields, beasts, fowls, or any other thing which hath been used or accustomed to be put in any of the same, or in and upon the letters of their names, have devised, descanted, and practised, to make folk think, that by their untrue guesses it might be known what good or evil things should come, happen, or be done, by or to such persons as bore or had such badges or cognizances, or had such letters in their names, to the great terror and destruction of such noble personages, of whom such false prophecies have or should hereafter be set forth, whereby, in times past, many noblemen have suffered, and (if their prince would give any ear thereto) might hap to do hereafter; and therefore enacted, that he who should do so, should be guilty of felony without benefit of clergy.

This statute was wholly repealed by the 1 *Ed. VI.* c. 12, which repealed all statutes making any offences felony from the first year of the reign of King Henry the Eighth. And the substance thereof was re-enacted, with a mitigation of the penalty, by the 3 & 4 *Ed. VI.* c. 15. Which statute expiring, the 5 *El.* c. 15, was enacted as above.

Protestant Dissenters. See *Dissenters*, Vol. I.

Prout Patet per Recordum. See *Indictment*, Vol. III.

Proviso in a Statute, Statement of in Indictment—See *Indictment*, Vol. III. **In Conviction**—See *Conviction*, Vol. I. *Proof of*, *ante*, Vol. II. p. 21.

Public Worship.

[50 *Edw. III.* c. 5; 1 *Rich. II.* c. 15; 1 *Edw. VI.* c. 1; 1 *Mar. sess.* 2, c. 3; 1 *Jac. I.* c. 4; 13 & 14 *Car. II.* c. 4; 1 *Will. & Mary, sess.* 1, c. 18; 22 *Geo. II.* c. 33, art. 1.]

AS to the Profanation of Churches in general, see *Church*, Vol. I.

Arresting Clergymen attending Service, see *ibid.*

Holding Fairs, &c., in Churches, *ibid.*

Brawling in, *ibid.*

Striking in, *ibid.*

Not Going to Church, see *Lord's Day*, Vol. III.

Travelling, Baking, Exercising Trades, &c., Killing Game, and Serving Process on Sunday, see *ibid.*

Impugning the Common Prayer and Public Worship, see *Common Prayer*, Vol. I.

Disturbing Congregations in Churches, see *Common Prayer*, Vol. I., *Dissenters*, Vol. I.

See, also, title, *Dissenters*, Vol. I.; *Popery, ante*, p. 147.

Public-House. See *Albhouse*, Vol. I.

Publication of Libel. See *Libel*, Vol. III.

Punishment. See *Death*, Vol. I.; *Felony*, Vol. II.; *Fine*, Vol. II.; *Hard Labour*, Vol. II.; *Imprisonment*, Vol. III.; *Misdemeanor*, Vol. III.; *Whip*, *ante*, p. 90; *Transportation*, *post*; *Whipping*, *post*; and see in general, *Judgment*, Vol. III.

Purveyors.

[12 Car. II. c. 24.]

ANCIENTLY, the king's court was supplied with necessaries from the ancient demesnes of the crown; and in respect thereof the tenants of those lands had many privileges, which they still enjoy: but this method, being found to be troublesome and inconvenient, was by degrees disused; and, afterwards, the king was wont to appoint certain officers to buy in provisions for his household, who were called purveyors, and claimed many privileges by the prerogative of the crown. 2 *Inst.* 542; 1 *Haw. c.* 47, s. 1.

Abuses of purveyors.

The several laws which restrained the exorbitance of these purveyors made up a pretty large title in the old books; but these laws proving ineffectual to remedy the evil complained of, at length, by the 12 Car. II. c. 24, purveyance was entirely taken away; by which it is enacted, that no sum of money, or other thing, shall be taken for any provision, carriages, or purveyances for the king.

Purveyance taken away.

12 Car. 2, c. 24.

And that no person, under colour of purveyance, shall take any timber, fuel, cattle, corn, grain, malt, hay, straw, victual, cart, carriage, or other thing, without consent of the owner; nor shall require any to furnish any horses, oxen, or other cattle, carts, ploughs, wains, or other carriages, for the use of the king or his household, without the owner's consent.

On pain of being committed to gaol by a justice of the peace, and the constable, until the next sessions, to be there indicted; and also of paying to the party treble damages and treble costs on an action at law.

Quaker. See *Evidence*, Vol. II. p. 86.

Quarantine. See *Plague*, *ante*, p. 95.

Quarter Sessions. See *Sessions*, *post*.

Quashing Indictments, &c. See *Indictment*, Vol. III.; *Information*, Vol. III.

Quay, Stealing from. See **Larceny**, Vol. III.

Quorum, Meaning of. See **Justices**, Vol. III.

Quo Warranto.

A Writ of Quo-warranto is in the nature of a writ of right for the king, against him who claims or usurps any office, franchise, or liberty, to inquire by *what authority* (*quo-warranto*) he supports his claim, in order to determine the right: *Finch. Law*, 322; 2 *Inst.* 282.

It lies also, in case of nonuser (or long neglect of a franchise), or misuser (or abuse of it), being a writ commanding the defendant to show by *what warrant* he exercises such a franchise, having never had any grant of it, or having forfeited it by neglect or abuse: 3 *Bla. Com.* 263.

This writ, being more in the nature of a *civil* than criminal proceeding, is not here further noticed. See *Tidd's Pract.* 9 ed.; *Com. Dig. Quo Warranto*. 3 *Bla. Com.* 263.

Rabbits. See **Game**, Vol. II.

Rape.

As to Assaults with intent to commit a Rape, see **Assault**, Vol. I. p. 278.

I. *What it is*, 258.

[9 Geo. IV. c. 31, s. 16, 17, 18.]

II. *Evidence on an Indictment of Rape*, 259, 260.

III. *Punishment of Rape*, 262.

IV. *Principal and Accessary*, 262.

V. *Forms*, 262.

I. *What it is*.

Rape, what.

RAPE is, when a man hath carnal knowledge of a woman by force, and against her will. 2 *Inst.* 180; 1 *Haw. c.* 41, s. 1.

Penetration.

Penetration without emission is now sufficient to constitute the offence. *R. v. Jennings*, 4 C. & P. 249; see the 9 Geo. IV. c. 31, s. 18, *post*, 259.

It was held, in *Russen's case*, 1 *East's P. C.* 438; 1 *Russell*, 803, that the *least degree of penetration* was sufficient, though not attended with the depri-

vation of the marks of virginity. In that case it was proved, that the parts of the injured party were so narrow, that a finger could not be introduced, and that the hymen was whole and unbroken; and yet this was held a sufficient penetration to constitute the offence (emission having also been proved, which was necessary as the law stood at that time). See *R. v. Hodgson*, and *R. v. Clarke*, *Buggery*, Vol. I.

A boy under the age of fourteen years is presumed by law incapable to commit a rape. 1 *Hale*, 631.

RAPE,
WHAT IT IS.

Youths under
fourteen.

A husband cannot be guilty of a rape upon his wife. *Id.* 629.

Wife.

But, in both these cases, they may be principals in the second degree, and punished for being present, aiding and abetting. *Id.* 629, 630; *Lord Audley's case*, 3 *How. St. Tr.* 419.

Having carnal knowledge of a married woman under circumstances which induce her to suppose it is her husband, is not a rape. *R. v. Jackson*, *R. & R. C. C.* 487.

Using deceit.

The offence of a rape is no way mitigated by showing that the woman at last yielded to the violence, if such her consent were forced by fear of death or of duress. 1 *Haw. c.* 41, s. 2.

Consenting at
last.

Also, it is not a sufficient excuse in the ravisher to prove that the woman is a common strumpet; for she is still under the protection of the law, and may not be forced. 1 *Haw. c.* 41, s. 2.

Ravishing a com-
mon strumpet.

Nor is it any excuse that the woman consented after the fact. 1 *Haw. c.* 41, s. 2.

Consenting after
the fact.

It is said by *Mr. Dalton* (c. 160), that if a woman, at the time of the supposed rape, do conceive with child by the ravisher, this is no rape: "for (he says) a woman cannot conceive except she doth consent." But *Mr. Hawkins* observes, that this opinion seems very questionable; not only because the previous violence is no way extenuated by such a subsequent consent, but also because, if it were necessary to show that the woman did not conceive, the offender could not be tried till such time as it might appear whether she did or not; and likewise because the philosophy of this notion may be very well doubted of. 1 *Haw. c.* 41, s. 9. And *Lord Hale* says, this opinion in *Dalton* seems to be no law. 1 *Hale*, 631.

Woman ravished
conceiving.

By the 9 Geo. IV. c. 31, s. 16, it is enacted, "that every person convicted of the crime of rape shall suffer death as a felon."

Punishment of
death.

Sect. 17 enacts, "that if any person shall unlawfully and carnally know and abuse any girl under the age of ten years, every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon. And if any person shall unlawfully and carnally know and abuse any girl, being above the age of ten years, and under the age of twelve years, every such offender shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned, with or without hard labour, in the common goal or house of correction, for such term as the court shall award." See, further, *Children*, Vol. I.

9 Geo. 4, c. 31.

Carnal know-
ledge of a girl
under ten; the
like of a girl
above ten and
below twelve.

Sect. 18. "And whereas, upon trials for the crimes of buggery, and of rape, and of carnally abusing girls under the respective ages hereinbefore mentioned, offenders frequently escape by reason of the difficulty of the proof which has been required of the completion of those several crimes; for remedy thereof be it enacted, that it shall not be necessary, in any of those cases, to prove the actual emission of seed in order to constitute a carnal knowledge, but that the carnal knowledge shall be deemed complete upon proof of penetration only."

What shall be
sufficient proof
of carnal know-
ledge in the four
preceding cases.

See the general clauses of this act, *Malicious Injuries to Persons*, Vol. III.

This provision of sect. 18 makes a most important alteration, and avoids all the former difficulty respecting the proof of emission. As to what is a sufficient penetration, see *ante*, 258.

Emission not ne-
cessary.

See, as to assaults to commit rapes, *Assault*, Vol. I. p. 278.

II. Evidence on an Indictment of Rape.

We have already seen as to what will constitute the offence, and the proofs must be adduced accordingly.

**RAPE,
EVIDENCE OF.**
The woman's
oath.

Circumstances in
favour of it.

Circumstances in
disfavour of it.

Bad character of
woman.

Infant a witness.

The party ravished may give evidence on oath, and is in law a competent witness; but the credibility of her testimony, and how far forth she is to be believed, must be left to the jury, and is more or less credible according to the circumstances of fact that concur in that testimony. 1 *Hale*, 633.

For instance: if the witness be of good fame; if she presently discovered the offence, and made pursuit after the offender; have shown circumstances and signs of the injury, whereof many are of that nature that only women are the most proper examiners and inspectors; if the place wherein the fact was done were remote from people, inhabitants, or passengers; if the offender fled for it. These and the like are concurring evidences to give greater probability to her testimony, when proved by others as well as herself. *Id.*

But, on the other side, if she concealed the injury for any considerable time after she had opportunity to complain; if the place where the fact was supposed to be committed were near to inhabitants, or common recourse or passage of passengers, and she made no outcry when the fact was supposed to be done, when and where, it is probable, she might be heard by others; or if a man prove himself to be in another place, or in other company, at the time she charges him with the fact; or if she be wrong in the description of the place; or swear the fact to be done in a place where it was impossible the man could have access to her at that time, as if the room were locked up, and the key in the custody of another person; these and the like circumstances carry a strong presumption that her testimony is false or feigned. *Id.*

The defendant may give evidence of the woman's notoriously bad character for want of chastity or common decency, or that she had before been connected with the prisoner himself; but he cannot give evidence of any other particular facts to impeach her chastity. *R. v. Hodgson*, 1 *Phil. Ev.* 190; *R. v. Clarke*, 2 *Stark.* 243. So, what she herself said so recently after the fact as to preclude the possibility of her being practised on, has been holden to be admissible in evidence as a part of the transaction; but the particulars of her complaint are not evidence of the truth of her statement. *R. v. Brazier*, 1 *East's P. C.* 444; *R. v. Clarke*, 2 *Stark.* 241. The woman, however, is not compellable to answer whether she has not had connexion with other men, or with a particular person named; nor is evidence of her having had such connexion admissible. *R. v. Hodgson*, *R. & R.* 211; *Arch. C. L.* 287. In a late case on the trial of an indictment for a rape, it was held that the prisoner's counsel might ask the prosecutrix the following questions, with a view to contradict her: "Were you not, on, &c. (since the time of the alleged offence), walking in the High Street at Oxford to look out for men?" "Were you not, on, &c. (since the time of the alleged offence), walking in High Street with a woman reputed to be a common prostitute?" It was also held, that evidence might be adduced by the prisoner to show the general light character of the prosecutrix, and that general evidence might be given of her being a street-walker; but *scilicet*, that evidence of specific acts of criminality by her would not be admissible. *R. v. Barker*, 3 *C. & P.* 589.

It has been made a doubt, at different periods in the history of our courts of law, at what particular age an infant could be sworn to prove a rape, or an assault with intent to ravish her; and at one time a rule appears to have prevailed, that no child could be admitted as a witness under the age of nine years, and very few under ten. *R. v. Travers*, 1 *Str.* 700; *R. v. Dannel*, 1 *East's P. C.* 442. But it appears now to be well established, that a child of any age, if capable of distinguishing between good and evil, may be examined upon oath; but that, whatever may be its age, it cannot be examined unless sworn. *Brazier's case*, *Reading Spr. Ass.* 1779; 1 *East's P. C.* 443, 444. By such capability of distinguishing between good and evil, must be understood a belief in God, or in a future state of rewards and punishments; from which the court may be satisfied that the witness entertains a proper sense of the danger and impiety of falsehood. *White's case*, 1 *Leach*, 430. See title *Infant*, Vol. III.

It appears to have been allowed, that the fact of the child's having complained of the injury recently after it was received, is confirmatory evidence; but where the child is not fit to be sworn, it is clear that any account which it may have given to others ought not to be received. 1 *Russ.* 812, citing *Bra-*

zier's case, supra. See 1 *Phil. Ev.* 19, 222, 6 ed. Thus, on an indictment for a rape on a child of five years of age, where the child was not examined, but an account of what she had told her mother about three weeks after the transaction, was given in evidence by the mother, and the jury convicted the prisoner, principally, as was supposed, on that evidence, the judges, on a case reserved for their opinion, thought the evidence clearly inadmissible; and the prisoner was accordingly pardoned. *Tucker's case, Exeter Spr. Ass.* 1808, cor. *Marshall, Sergt.*; *MS. C. C. R.*; 5 *Burn's J.*, 24 ed. 3; *ante, Infant*, Vol. III.

RAPE,
EVIDENCE OF.

When the child has appeared not sufficiently to understand the nature and obligation of an oath, judges have often thought it necessary, for the purposes of justice, to put off the trial of a prisoner, directing that the child in the meantime should be properly instructed. Thus, in a criminal prosecution that was coming on to be tried before *Rooke, J.*, at Gloucester, finding that the principal witness was an infant, who was wholly incompetent to take an oath, he postponed the trial till the following assizes, and ordered the child to be instructed in the meantime by a clergyman in the principles of her duty, and the nature and obligation of an oath. At the next assizes, the prisoner was put upon his trial, and the girl being found by the court, on examination, to have a proper sense of the nature of an oath, was sworn, and upon her testimony the prisoner was convicted, and afterwards executed. *Mr. J. Rooke* mentioned this at the Old Bailey in 1795, in the case of *Patrick Murphy*, who was indicted for a rape on a child of seven years old; and the learned judge added, that upon a conference with the other judges, upon his return from the circuit, they unanimously approved of what he had done. *Vide 2 Bac. Abr.* 577 (n); 1 *Leach*, 430 (n).

In a case where the party ravished had died before the trial, her deposition, corroborated by other evidence of actual force and penetration, was held sufficient to warrant a conviction, though there did not appear to be any direct evidence of emission. It was left to the jury to determine whether the crime had been completed by penetration and emission; and they were directed that they might collect the fact of emission from the evidence, though the unfortunate girl was dead, and could not therefore give any further account of the transaction, than that which was contained in her deposition before the magistrate. *R. v. Fleming and Windham*, 2 *Leach*, 854.

Where the evidence of children is admitted, it is much to be wished, in order to render their evidence credible, that there should be some concurrent testimony of time, place, and circumstances, in order to make out the fact; and that the conviction should not be grounded singly on the unsupported accusation of an infant under years of discretion. There may be, therefore, in many cases of this nature, witnesses who are competent,—that is, who may be admitted to be heard; and yet, after being heard, may prove not to be credible, or such as the jury is bound to believe. For one excellence of the trial by jury is, that the jury are triers of the credit of the witnesses as well as of the truth of the fact. 4 *Bla. Com.* 214; 1 *Phil. Ev.* 19, 6 ed.

The party grieved is so much considered as a witness of necessity in this, as *Wife*. in other personal injuries, that if one assist another man to ravish his own wife, she is admissible as a witness against him. *Lord Audley's case*, 3 *Howell's St. Tr.* 419, cited in 1 *East's P. C.* 444.

"It is true," says *Lord Hale*, "that rape is a most detestable crime, and therefore ought severely and impartially to be punished with death: but it must be remembered, it is an accusation easily to be made, and hard to be proved, and harder to be defended by the party accused, though never so innocent." He then mentions two remarkable cases of malicious prosecution for this crime, that had come within his knowledge; and concludes, "I mention these instances that we may be more cautious upon trials of offences of this nature, wherein the court and jury may, with so much ease, be imposed upon, without great care and vigilance; the heinousness of the offence many times transporting the judge and jury with so much indignation, that they are over-hastily carried to the conviction of the person accused thereof, by the confident testimony, sometimes, of malicious and false witnesses." 1 *Hale*, 635, 636; 4 *Bla. Com.* 214.

General caution.

III. Punishment of Rape.

Death.

By the 9 Geo. IV. c. 31, s. 16, the punishment for this offence is death. See the general clauses, *Malicious Injuries to Persons*, Vol. III.

IV. Principal and Accessary.

Persons present and aiding are principals.

Mr. *Hawkins* says, all who are present, and actually assist a man to commit a rape, may be indicted as principal offenders, whether they be men or women. 1 *Haw. c. 41, s. 6.*

So one woman may be a principal to the ravishment of another.

In *R. v. Burgess and others, Chester Spr. Ass. 1813*, upon an indictment charging three persons jointly with the commission of a rape, an objection was taken, that three persons could not be guilty of the same joint act; but it was overruled, upon the ground that the legal construction of the averment was only that they had done such acts as subjected them to be punished as principals in the offence. The execution was, however, respited, probably with a view to enable the learned judges to consult other authorities on the accuracy of their opinion: but the prisoners were afterwards executed. 5 *Ev. Col. Stat. Cl. 6, p. 244, note (17), 2 ed.*; and see 1 *Russ. 301.*

See the general clauses of the 9 Geo. IV. c. 31, as to accessaries, *Malicious Injuries to Persons*, Vol. III.

See further, *Accessary*, Vol. I.

Forms.

(No. 1.)

Warrant for a rape.

County of } To the constable of _____, and to all other constables and peace-officers in and for the said county of _____

Forasmuch as *A. S.*, of _____, in the said county, [single woman,] hath this day made information and complaint upon oath before me, *G. C., Esq.*, one of his majesty's justices of the peace in and for the said county, that *A. R.*, of _____, in the said county, [labourer,] on the _____ day of _____, instant, at _____, in the said county, did violently and feloniously make an assault upon her, the said *A. S.*, and her, the said *A. S.*, then and there, violently and against her will, did ravish and carnally know. These are therefore to command you, in his majesty's name, forthwith to apprehend and bring before me, or some other of his majesty's justices of the peace in and for the said county, the body of the said *A. R.*, to answer unto the said complaint, and to be further dealt with according to law. Herein fail you not. Given under my hand and seal, the _____ day of _____, in the year of our Lord _____.

(No. 2.)

Commitment for a rape.

Commencement as usual, as ante, p. 71. (No. 1.)] on, &c., at, &c., violently and feloniously did assault one *C. D.*, and her, the said *C. D.*, then and there, violently, and against her will, feloniously did ravish and carnally know; against the form of the statute in that case made and provided. And you, the said keeper, &c., [as usual, as ante, p. 71, (No. 1.) to the end.]

(No. 3.)

Indictment for a rape.

_____ The jurors of our lord the king upon their oath present, that *A. O.*, late of _____, in the county of _____, [yeoman] not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the _____ day of _____ in the _____ year of the reign of _____, with force and arms, at _____, in the county aforesaid, in and upon one *A. I.*, [spinster,] in the peace of God and of our said lord the king, then and there being, violently and feloniously did make an assault, and her, the said *A. I.*, violently and against the will of her, the said *A. I.*, then and there feloniously did ravish and carnally know; against the peace of our said lord the king, his crown and dignity, and against the form of the statute in such case made and provided.

Receipts. See title *Stamps, post.*

Receivers of Stolen Goods. See *Accessory*, Vol. I. p. 32 to 36.

Recognizance.

See *Fines*, Vol. II.

I. *What and when, and of whom may be required*, p. 263.

[9 Geo. IV. c. 64, s. 2, 4, 5, 6.]

II. *Refusing to enter into*, p. 265.

III. *Form, &c. of*, p. 265.

[7 Geo. IV. c. 64, s. 4; 3 Hen. VII. c. 1.]

IV. *Forfeiture, Estreat, Discharge, and Respite of*, p. 266 to 270.

[3 Geo. IV. c. 46, s. 5, 6, 14; 4 Geo. IV. c. 37; 7 Geo. IV. c. 64, s. 31.]

V. *Forms*, p. 270.

I. *What, and when may be required.*

See *Fines* and *Forfeited Recognizances*, Vol. II.

RECOGNIZANCE is a bond of record, testifying the recognizor to owe a certain sum of money to some other; and the acknowledging of the same is to remain of record; and none can take it but only a judge or officer of record. *Dalt. c. 186; 2 Bla. Com. 341.* What it is.

These recognizances, in some cases, the justices of the peace are enabled to take by the express words of certain statutes; and in other cases (as for the peace and good behaviour, and the like), it is rather in congruity, and by reasonable intendment of law, than by any express authority given them, either by their commission, or by the statute law. *Crom. 125; Dalt. c. 168.* In what cases it may be taken.

Whosoever any statute giveth them power to take a bond of any man, or to bind over any man to appear at the assizes or sessions, or to take sureties for any matter or cause, they may take a recognizance. Yea, whosoever they have authority given them to cause a man to do a thing, there it seemeth they have, in congruity, power given them to bind the party by recognizance to do it; and if the party shall refuse to be bound, the justice may send him to gaol. *Dalt. c. 168.*

But he can take no recognizance but only of such matters as concern his office; and if he doth, it seemeth to be void. *Dalt. c. 168.*

As regards the power and duty of justices to bind by recognizances to prosecute or give evidence in *felonies*, the 7 Geo. IV. c. 64, s. 2, reciting the expediency of amending and extending the provisions of the 1 & 2 P. & M. c. 13, and 2 & 3 P. & M. c. 10, enacts, "that the two justices of the peace, before they shall admit to bail, and the justice or justices, before he or they shall commit to prison, any person arrested for felony, or on suspicion of felony, shall take the examination of such person, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing; and

Recognizance to prosecute and give evidence in felonies.

RECOGNIZANCE.	the two justices shall certify such bailment in writing; and every such justice shall have authority to bind by recognizance all such persons as know or declare any thing material touching any such felony or suspicion of felony, to appear at the next court of oyer and terminer, or gaol delivery, or superior criminal court of a county palatine, or great sessions † or sessions of the peace, at which the trial thereof is intended to be, then and there to prosecute or give evidence against the party accused; and such justices and justice respectively shall subscribe all such examinations, informations, bailments, and recognizances, and deliver or cause the same to be delivered to the proper officer of the court in which the trial is to be, before or at the opening of the court." See <i>Examination</i> , Vol. II.
Power to justices.	This statute wholly repeals the 1 & 2 P. & M. c. 13, and 2 & 3 P. & M. c. 10.
† Sic.	
Recognizances, &c. to be certified, &c.	
Coroners.	The fourth section of the above act, 7 Geo. IV. c. 64, empowers coroners on inquests to bind by recognizance witnesses to appear, &c., in cases of manslaughter or murder, or accessory to murder. See <i>Coroner</i> , Vol. I.
Recognizances to prosecute or give evidence in misdemeanors.	As regards the power and duty of justices to bind by recognizances to prosecute or give evidence in <i>misdemeanors</i> , the 7 Geo. IV. c. 64, s. 3, enacts, "that every justice of the peace before whom any person shall be taken on a charge of misdemeanor, or suspicion thereof, shall take the examination of the person charged, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing, before he shall commit to prison or require bail from the person so charged; and, in every case of bailment, shall certify the bailment in writing; and shall have authority to bind all persons by recognizance to appear to prosecute or give evidence against the party accused, in like manner as in cases of felony; and shall subscribe all examinations, informations, bailments, and recognizances, † deliver or cause the same to be delivered to the proper officer of the court in which the trial is to be, before or at the opening of the court, in like manner as in cases of felony."
Power to justices.	
† Sic.	
Recognizances to be certified, &c.	
Penalty on justices, &c.	Sect. 5 enacts, "that if any justice or coroner shall offend in any thing contrary to the true intent and meaning of these provisions, the court to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence in a summary manner, set such fine upon every such justice or coroner as the court shall think meet."
Provisions to apply to all justices, &c.	Sect. 6 enacts, "that all these provisions relating to justices and coroners shall apply to the justices and coroners not only of counties at large, but also of all other jurisdictions."
Recognizances of accused and bail.	And as to exclusive jurisdictions, see the 30 Geo. III. c. 14, s. 2; <i>ante</i> , <i>Justices</i> , Vol. III.
To keep the peace.	As to the recognizance by the accused, and his bail to appear, &c., see <i>Bail</i> , Vol. I. p. 307, 308; <i>Commitment</i> , Vol. I.
On appeal or certiorari.	As to the recognizance and sureties to keep the peace, see <i>Surety for the Peace</i> , <i>post</i> ; 2 B. & Ald. 278.
Infancy.	As to the recognizances on appeal or certiorari, &c., see those titles.
Feme covert.	A recognizance to prosecute or give evidence seems binding on an infant. See <i>Exp. Williams</i> , 13 Price, 670; <i>M'Clel</i> . 493: it was there held that infancy was no ground for discharging a forfeited recognizance to appear at the assizes to prosecute for felony.
Sureties.	A <i>feme covert</i> must enter into a recognizance, by sureties or otherwise, to appear as a witness: 3 M. & S. 1, <i>post</i> , 265; 1 Chit. C. L. 91.
	But, in general, the parties' own recognizance, without sureties, is all that can be insisted on. <i>Ante</i> , Vol. II. p. 102.
	Where a <i>defendant</i> , indicted at the quarter sessions for a conspiracy, had entered into insufficient recognizances, it was holden, that the Court of King's Bench, on a removal by <i>certiorari</i> , might discharge them on motion, and compel him to enter into better securities: <i>R. v. Hooper and others</i> , 1 Chit. C. L. 491.

II. Refusing to enter into.

If the party improperly refuse to enter into the recognizance to prosecute or give evidence, the magistrate, it seems, has power to commit him, this power being virtually included in his commission, and, by necessary consequence from the above, the 7 Geo. IV. c. 64. See 1 *Hale*, 586; 2 *Hale*, 52. And in a case where a married woman refused to enter into a recognizance for her appearance at sessions, to give evidence against a felon, and the magistrate committed her, the Court of King's Bench held that the commitment was legal. *Bennett v. Watson*, 3 M. & S. 1. But in a late case it was made a question whether a magistrate has power to commit a person for contemptuously refusing to take an oath and give evidence touching a charge of riot alleged to have been committed by a person then under examination. *Cropper v. Horton*, 4 D. & R., M. C. 42. And in the same case, where the plaintiff was committed by a justice for refusing to give evidence before him, touching a certain riot and disturbance, without showing that there had been a person charged before the justices, and that the plaintiff was apprized of the existence of such a charge, with respect to which he was required to be examined as a witness, it was held the warrant of commitment was no justification of the magistrate, in an action of trespass.

Refusing to enter into.
Commitment.

III. Form, &c. of.

Every obligation and recognizance, taken by justices of the peace, must be made to our lord the king: on pain of imprisonment of any person that shall take it otherwise. *Dalt. c. 168*.

Form of recognizance.

It must also contain the name, place of abode, and trade or calling, both of principal and sureties, and the sums in which they are bound. *Barl. Recog. p. 454*.

And it is most commonly subject to a condition, which is either indorsed or underwritten, or contained within the body of it, upon the performance of which the recognizance shall be void. *Barl. Recog. p. 454*.

Condition.

When the parties are to enter into recognizance, call them by their names, thus:—

Manner of taking it.

"You, A. B., acknowledge to owe to our sovereign lord the king the sum of _____, and you, C. D., acknowledge to owe to our sovereign lord the king the sum of _____; to be levied of your respective goods and chattels, lands and tenements, for the use of our said lord the king, his heirs and successors, if default shall be made in the condition following; that is to say, if you, the said A. B., shall make default in appearing," &c.

But the parties need not to sign it. *Barl. Recog. p. 454*.

And it is usual for the justices to mark at the foot of the examination, A. B., in 40*l*. to appear, &c. And from such short note make out a record afterwards. *Barl. Recog. p. 454*.

Marking of.

Yet the recognizance is a matter of record presently so soon as it is taken and acknowledged, although it be not made up. *Dalt. c. 168*; *sed vide Glynn v. Thorpe*, 1 B. & Ald. 153, where it was considered that a recognizance was not a record until enrolled.

A record.

Lord Coke (1 *Inst.* 260) says that a record is a memorial or remembrance in rolls of parchment, &c. From whence it seemeth that a recognizance ought to be ingrossed on parchment—perhaps, for this reason, because parchment is more durable than paper: but since there is no law which prohibits it to be ingrossed on paper, it seemeth that, if it shall be on paper only, and not on parchment, it is good in law.

On parchment.

And when it is made up, if the justice shall only subscribe his name without his seal to it, this is well enough; and that may be in either of these sorts: "Acknowledged before me, J. P.," or only to subscribe his name thus—"J. P." *Dalt. c. 176*.

To be subscribed.

RECOGNIZANCE, FORM OF, &c.

Recognizances before justices to state certain particulars.

3 Geo. 4, c. 46.

Notice to be given on entering into a recognizance.

Only applies to recognizances to appear at sessions.

Certifying recognizances.

By the 3 Geo. IV. c. 46, s. 4, it is enacted, that each and every justice of the peace, before whom any recognizance (see *infra*) shall be entered into or taken, shall and is hereby required to give, or cause to be given, at the time of entering into such recognizance, to the person or persons, surety or sureties, so entering into the same, and to each of them, a written or printed paper or notice, in the form or to the effect stated in the schedule marked (a) to this act annexed, adapting the same to the particular circumstances of the case; and each and every such justice shall, in such recognizance, state and particularly specify, not only the profession, art, mystery, or trade, of every person so entering into such recognizance, together with their christian name and names, and surnames, but also the parish, township, or place of his or her residence; and, in case such residence shall be in any city, town, or borough, shall also state and particularly specify the name of the street, and number of the house (if any), in which such person shall reside, and, also, whether owner or tenant thereof, or lodger therein.

The words "any recognizance," appear sufficient to embrace all recognizances; but the whole of the statute, and the notice above required, appear to relate only to recognizances to be returned to the general or quarter sessions. *Car. C. L.* 120.

The 2d, 3d, & 4th sections of the 7 Geo. IV. c. 64, which have been already noticed, relate to the certifying of recognizances to *prosecute or give evidence*. See them, *ante*, 263, 264. And by the 3 Hen. 7, c. 1, the justices shall certify their recognizances for *keeping the peace* to the next sessions, that the party may be called; and, if he make default, the default shall be recorded, and the recognizance, with the record of the default, shall be sent and certified into the Chancery, King's Bench, or Exchequer.

IV. Forfeiture, Estreat, Discharge, or Respite of Recognizances.

Forfeiture.

If the party fail to comply with the condition of the recognizance, the same will become forfeited, and may be put in force against him.

It is incumbent on persons under recognizance, who, in consequence either of bills not having been found, or of none having been preferred, may not be called upon to answer or give evidence, to see that their appearance is recorded so as to enable the court to order his recognizance to be cancelled, as otherwise such an attendance is no attendance at all. Per *Thompson, C. B., R. v. Miller, Jun.*, 1808, 4 *Chit. C. L.* 490, 491.

Estreating recognizances.

Estreating Recognizances—*R. v. Ridpath*, 10 *Mod.* 152; *Fort.* 358. Ridpath entered into a recognizance, with sureties, to appear the first day of the term to answer (generally), and in the meantime to be of good behaviour, and not to depart without leave of the court. An information was preferred against him by the attorney-general; who, for some defect in the pleading, entered a *noli prosequi*, and then exhibited a new information. The court was of opinion that the recognizance extended to all crimes whatsoever that he should be charged with; and that, if it should have relation to any particular crime only, it must be mentioned in the recognizance, which in this case is only to *answer* generally; that the inconvenience is not so great as is pretended, the bail in this case being bound in a sum certain, and not to stand in the place of the principal, as in civil cases; and that the *noli prosequi* is neither a bar nor discharge.

Defendant being taken up on the 8th of June, upon an indictment for a libel, entered into a recognizance to appear and plead, within the first eight days of Trinity term, and to try the cause at the sittings after that term. The defendant pleaded not guilty, but did not give notice of trial or make up the record, either for the sittings after Trinity or Michaelmas term, nor were the recognizances respited. The prosecutors gave notice of trial after Trinity and

(a) See form, *post*, 270 (No. 1.)

Michaelmas term, but the causes were not tried. The defendant was ready and willing to take his trial on both these occasions. The recognizances were estreated in Hilary term, without any notice to the defendant, or any motion by the prosecutor: held that this estreat was regular. *R. v. Clark*, 5 B. & A. 728.

R. v. Tomb, 10 Mod. 278. If a recognizance be estreated in the Exchequer, because not punctually complied with, yet if the party appear and take his trial next session, he may compound for a very small matter in the Court of Exchequer; because the effect, though not the exact form of the recognizance, is complied with. The judges of oyer and terminer are the proper judges whether recognizances ought to be estreated or spared; and it is for the advantage of public justice that they should have such power, if upon the circumstances of the case they see fit. And, by parity of reason, it should seem that the justices of the peace in the quarter sessions should have the like power in respect of offences cognizable there. And see *post*,

As to the course to be pursued in enforcing estreats into the Exchequer from the Court of King's Bench, see *R. v. Shackle*, *M'Clel. & Y.* 514, 523; 13 *Price*, 299.

It seems questionable whether the quarter sessions can now in any case, since September, 1822, send the estreats of forfeited recognizances taken before them into the Exchequer. 13 *Price*, 299; *M'Clel.* 101, S. C.

By the 7 Geo. IV. c. 64, s. 31, reciting, that "the practice of indiscriminately estreating recognizances for the appearance of persons to prosecute or give evidence, or to answer for a common assault, or in the other cases herein-after specified, has been found in many instances productive of hardship to persons who have entered into the same;" it is enacted, "that in every case where any person bound by recognizance for his or her appearance, or for whose appearance any other person shall be so bound to prosecute or give evidence in any case of felony or misdemeanor, or to answer for any common assault, or to articles of the peace, or to abide an order in bastardy, shall therein make default, the officer of the court by whom the estreats are made out shall and is hereby required to prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which every such person, or his or her surety, was so bound, together with the residence, trade, profession, or calling, of every such person and surety, and shall in such list distinguish the principals from the sureties, and shall state the cause, if known, why each such person has not appeared, and whether by reason of the non-appearance of such person the ends of justice have been defeated or delayed; and every such officer shall and is hereby required, before any such recognizance shall be estreated, to lay such list, if at a court of oyer and terminer or gaol delivery in any county besides Middlesex and London, or at a court of great sessions, or at one of the superior courts of the counties palatine, before one of the justices of those courts respectively; if at a court wherein a recorder or other corporate officer is the judge or one of the judges, before such recorder or other corporate officer; and if at a session of the peace, before the chairman or two other justices of the peace who shall have attended such court, who are respectively authorized and required to examine such list, and to make such order touching the estreating or putting in process of any such recognizance as shall appear to them respectively to be just; and it shall not be lawful for the officer of any court to estreat or put in process any such recognizance without the written order of the justice, recorder, corporate officer, chairman, or justices of the peace, before whom respectively such list shall have been laid."

This enactment does not appear to make any alteration in the practice of the sessions, as to moving to respite or discharge recognizances *before* they have become forfeited, as it only applies to cases of recognizances which have been forfeited; nor does it appear to affect the discretionary power given to the sessions to remit the forfeiture under the 3 Geo. IV. c. 46, s. 6, *post*, 270; *Car. Cr. L.* 131.

By the 3 Geo. IV. c. 46, s. 14, it is enacted, "that all and every the clerk and clerks of the peace, and all town clerks, within that part of the United Kingdom called England, do and shall, on or before the second Monday after

RECOGNIZANCE,
ESTREATS, &c.

Estreats from
King's Bench.

Sessions sending
estreats into Ex-
chequer.

Recognizances
in certain cases
not to be estreat-
ed without a
judge's order.
7 Geo. 4, c. 64, s. 1.

Lists to be made,

and delivered to
courts.

Application of
this enactment.

Fines, forfeited
recognizances,
&c., to be enter-

**RECOGNIZANCE,
ESTREATS, &c.**

ed on a roll, a copy of which is to be sent to the sheriff, with writs to levy the amount.

Security to abide the decision.

Justices to state in roll all fines, &c., not levied.
4 Geo. 4, c. 37.

Where party subject to fines, &c., resides in another county, or has removed, sheriff may issue his warrant to sheriff acting for place where defaulter resides, or where his goods are found, requiring him to execute the writ.
†§c.

Returns thereon.

Discharging in Exchequer.

the morrow of All Souls, yearly in every year, make and deliver into the Court of Exchequer, a true and perfect duplicate, on certificate, of all such fines, issues, amerciements, forfeited recognizances, and sum or sums of money, and other forfeitures whatsoever paid in lieu or satisfaction of them, or any of them, as shall be contained in the several rolls or copies which shall be so sent out to the sheriff for the purpose of levying as aforesaid, and which shall have been set, lost, imposed, or forfeited, in any of the said sessions of the peace, which shall be held before Michaelmas in each year, to the intent that the sheriffs, on their appraisals in the said Court of Exchequer, may be charged in their accounts with the monies levied and received by him or them respectively upon such writs or otherwise, and that all parties entitled to any such fines, recognizances, or other forfeitures, or any portion or portions thereof, may be at liberty to claim the same before the foreign apposer of the said Court of Exchequer, according to the ancient course and practice of the said court."

But by the fifth section of the same statute, it is enacted, that if the person shall give security to the sheriff or officer, to appear at the next general or quarter sessions, to abide the decision of the court, and pay such sum and such expenses as shall be ordered, the sheriff shall discharge him out of custody; and, in case he does not appear, similar writs may issue against his sureties; and see this and the sixth section, *post*, 269, 270.

The duplicate of fines, &c. and forfeited recognizances required to be delivered into the Exchequer by the clerk of the peace under the above fourteenth section, must be delivered in on oath. *Exp. Hodgson*, 1 *Man. & Ry. M. C.* 346.

By the 4 Geo. IV. c. 37, the justices are to insert in any following roll all fines, forfeited recognizances, &c. which have not been duly levied, and the sheriff shall detain the writs, which are to continue in force.

That statute also provides, that when a sheriff or other officer goes out of office, he shall deliver such rolls and writs to his successor, who is to execute them.

And by the third section of that statute, (which repeals the seventh section of the 3 Geo. IV. c. 45,) it is enacted, "that in all cases where the party incurring or subject to any fine, issue, amerciament, forfeited recognizance, † sum or sums of money to be paid in lieu or satisfaction of them, or any of them, shall reside, or shall have fled or removed from or out of the jurisdiction of the sheriff, bailiff, or other officer, in which any such fine, issue, amerciament, forfeited recognizance, sum or sums of money to be paid in lieu or satisfaction of them, or any of them, shall have been incurred, imposed, or forfeited, or become due, it shall be lawful for such sheriff, bailiff, or other officer, and he is hereby authorized and required to issue his warrant, together with a copy of the writ; directed to the sheriff, bailiff, or other officer acting for the county, riding, city, borough, or place, in which such person shall then reside or be, or in which any goods or chattels, or other property, shall be found, requiring such sheriff, bailiff, or other officer to execute such writ, and every such last-mentioned sheriff, bailiff, or other officer, is hereby authorized and required to act in all respects under such warrant, in the same manner as if the original writ had been delivered to him by order of the court of the general or quarter sessions of the county, riding, city, borough, or place, for which such sheriff, bailiff, or other officer shall act; and the said sheriff, bailiff, or other officer, is hereby required, within thirty days after the receipt of such warrant, to return to the sheriff, bailiff, or other officer, from whom he shall have received the same, what he shall have done in the execution of such process, and whether the party shall have given good and sufficient security to appeal at the ensuing general or quarter sessions to be held for the county, riding, city, borough, or place, from which the writ issued, and in case a levy shall have been made, to pay over all monies received in pursuance of the warrant to the sheriff, bailiff, or other officer, from whom he shall have received the same."

By other sections of this statute, the sheriffs and clerks of the peace are directed to make returns to the treasury.

Discharging Recognizances in Exchequer—Recognizances estreated into the

Exchequer may be discharged or compounded by the court, according to the equity and circumstances of the case. *Re Pellew, M'Clel.* 111; 13 *Price*, 299, S. C. And, by 4 Geo. III. c. 10, in case recognizances shall be estreated, where the offence is not attended with aggravated circumstances, it is enacted as follows: "Whereas many recognizances have been estreated into his majesty's Court of Exchequer against persons for not appearing as parties or witnesses in his majesty's courts of record at Westminster, or at the assizes and general quarter sessions, or other courts of record, in that part of Great Britain called England, or for not prosecuting indictments there, or otherwise not performing the conditions in such recognizances contained, many of which neglects of duty have happened by the inattention of ignorant people, some of whom are imprisoned, and a great number of others liable to be so, by the process constantly issued against them out of the Courts of Exchequer, and directed to the sheriffs, though no other prosecution be subsisting but merely for such forfeitures of their recognizances, from which there are no easy means at present, for poor persons especially, to procure any discharge: for remedy whereof it is enacted, that from and after the 5th day of May, 1764, it shall be lawful for the barons of his majesty's Court of Exchequer, upon affidavit and petition to be presented to them by or on the behalf of the person or persons imprisoned, or liable to be imprisoned, on the forfeiture of any such recognizances, to discharge such person or persons, by order from the said barons, without any *quæritus* to be sued out for that purpose; for which order no more than 1*l.* 1*s.* shall be taken by the officer appointed to give out the same: provided that no discharge shall be given on such petitions where any debt is due to the crown, other than by the recognizances so prayed to be discharged; nor in any cases of defrauding his majesty's revenue by contraband trade, or assaulting his majesty's officers of the customs or excise in the execution of their duty, or any person or persons lawfully assisting them therein."

FORFEITURE,
ESTREAT &c.
4 Geo. 3, c. 10.

Proviso.

The Court of Exchequer has jurisdiction to respite and stay process on estreated recognizances; and they will do so on application, in order to give the cognizors an opportunity of trying a question of law, respecting the subject-matter of the conviction, although the forfeiture import the breach of a duty imposed by competent authority, under an act of Parliament. *Re Fridlington*, 9 *Price*, 658.

Infancy is no ground for discharging a forfeited recognizance. *Exp. Williams, M'Clel.* 493; 13 *Price*, 670; *ante*, 264.

A defendant having been committed to prison on a forfeited recognizance, his wife and family becoming burthensome to the parish is not a sufficient ground to discharge him. *R. v. Staucher*, 3 *Price*, 261.

Reg. v. Drummond, 11 *Mod.* 200. Lord Drummond stood bound by recognizance to appear in the Court of King's Bench the first day of the term; and Sir Simon Harcourt, excusing his non-appearance by reason of sickness, moved that his recognizance might be discharged, the attorney-general having orders, and, being in court, consenting thereto. But Holt, C. J., said, notwithstanding such consent, Lord Drummond not appearing in person, the court could not discharge the recognizance, but said they could respite it till the next term; which was done accordingly.

The statutes 3 Geo. IV. c. 46, and 4 Geo. IV. c. 37, do not oust the Court of Exchequer of its jurisdiction, where forfeited recognizances have been actually estreated into it from an inferior jurisdiction. *Exp. Pellew, M'Clel.* 111; 13 *Price*, 299, S. C.

Exchequer Jurisdiction not ousted by 3 Geo. 4, c. 46, or 4 Geo. 4, c. 37.

Discharging, &c., by the Sessions—By the 3 Geo. IV. c. 46, s. 5, it is provided and enacted, "that if any person, on whose goods and chattels such sheriff, bailiff, or officer shall be authorized to levy any such forfeited recognizance, or sum of money to be paid in lieu or satisfaction thereof, shall give security to the said sheriff, bailiff, or officer, for his appearance at the next general or quarter sessions, then and there to abide the decision of the court, and also to pay such forfeited recognizance, or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as shall be ordered and adjudged by the court; it shall be lawful for such sheriff, bailiff, or officer, and he is hereby

Appeal to quarter sessions against fines, &c., upon giving security.

RECOGNIZANCE, &c.

Proviso for non-appearance.

Justices at quarter sessions to hear and determine such appeal, and may discharge recognizances, &c.

Costs.

authorized and required, to discharge such person so giving such security out of custody: provided, also, that, in case such party so giving security shall not appear in pursuance of his undertaking, it shall be lawful for the court forthwith to issue a writ of *distringas* and *capias*, or *feri facias* and *capias*, against the surety or sureties of the person so bound, as aforesaid."

Sect. 6 enacts, "that the court of general or quarter sessions, before whom any person so committed to gaol or bound to appear shall be brought, is hereby authorized and required to inquire into the circumstances of the case, and shall, at its discretion, be empowered to order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, or any part thereof; and such order shall be made in the form or to the effect of the schedule marked (C) (b) to this act annexed, and shall be signed by the clerk of the peace; which said order shall be a discharge to such sheriff, bailiff, or officer, on the passing of his accounts at the Exchequer, or before any auditor, or other proper officer duly authorized to pass the same; and, in all cases where the party shall have been lodged in the common gaol by such sheriff, bailiff, or other officer, the justices of the peace so assembled are hereby empowered either to remand such party to the custody of the sheriff, bailiff, or other officer, or, upon the release of such party from the whole of such forfeited recognizance, to order such party to be discharged from custody; and such order shall be a full and sufficient discharge to the said sheriff, bailiff, or officer, on the passing of his accounts at the Exchequer, or before any auditor, or other proper officer duly authorized to pass the same; and it shall and may be lawful to and for the said court of general or quarter sessions to award such costs, charges, and expenses, to be paid by either party to the other, as to the said court shall seem just and reasonable."

If a recognizance be estreated at the quarter sessions, and a writ issue to the sheriff to levy under the 3 Geo. IV. c. 46, and the sheriff levy the amount, the quarter sessions have not the power to mitigate the amount, although the money has been actually levied; and the party cannot compel the sheriff to pay back the difference. *Haynes v. Hayton*, 7 B. & C. 293; 2 C. & P. 621, S. C.

Forms.

(No. 1.)

Notice to be given to party entering into a recognizance to appear at sessions. (c)

" To wit. } Take notice, that you, , of
 } are bound in the sum of pounds, and your sureties,
 , in the sums of pounds each, to appear at the quarter
 or general sessions of the peace for the county of , to be holden at
 , on the day of next; and, unless you
 personally make your appearance accordingly, the recognizances entered into by your-
 self and securities will be forthwith levied on you and your bail. Dated this
 day of , one thousand eight hundred and
 Justice of the Peace."

(No. 2.)

Order of sessions of discharge, &c., of estreats. (c)

" To the sheriff [bailiff or officer, as the case may be] of the county, city, borough, or place, as the case may be, of
 " Whereas hath appeared before the justices assembled at the general [or quarter] sessions [as the case may be], held at the , on the day of , (d) has forfeited the sum of , [here describe the nature of the fine or forfeiture] . And having made it appear, to the satisfaction of the justices so assembled, that he should be

(b) See Form, *infra*, (No. 2.)

(c) The 3 Geo. IV. c. 46, gives this form.

(d) Sic in statute, but the word "who" seems omitted.

relieved from the payment of the said sum of [or, if the penalty is mitigated, state from what part thereof], you are, therefore, hereby required to discharge the said sum of , from the estreat-roll delivered to you after the quarter sessions held at , for which discharge this warrant shall be your authority, and shall exonerate you from the said charge on the final passing of your accounts at the Exchequer, or before any other officer duly authorized to pass such account.

"By order of the Court."

(No. 3.)

County of } Be it remembered, that on the day of , in the year of the reign of our Lord William the Fourth of the United Kingdom of Great Britain and Ireland, king, defender of the faith, A. O., of , in the county aforesaid, [yeoman,] and A. S., of , in the county aforesaid, [sailor,] and B. S., of , in the county aforesaid, [labourer,] personally came before me, J. P., Esq., one of the justices of our said lord the king, assigned to keep the peace in the said county, and acknowledged themselves to owe to our said lord the king; that is to say, the said A. O., the sum of 20l., and the said A. S. and B. S., each the sum of 10l. separately, and of good and lawful money of Great Britain, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said lord the king, his heirs and successors, if the said A. O. shall make default in the condition herein indorsed [or, hereunder written].

Acknowledged before me,

J. P.

The conditions of recognizances in all the variety of cases are interspersed under their proper titles.

(No. 4.)

County of } Be it remembered, that on the day of , in the year of the reign of our Lord William the Fourth of the United Kingdom of Great Britain and Ireland, king, defender of the faith, A. O., of , in the said county, yeoman, personally came before me, J. P., Esq., one of the justices of our said lord the king, assigned to keep the peace of the said county, and acknowledged himself to owe to our said lord the king, 10l. of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said lord the king, his heirs and successors, if he, the said A. O., shall fail in the condition under written [or indorsed].

J. P.

The condition of the above-written [or, within-written] recognizance is such, that if the above-bound A. O. shall, &c., [] then the said recognizance to be void, or else remain in its force.

(No. 5.)

The condition of the within-written recognizance is such that whereas one A. B., late of [ante, 265] was this day brought before the justice within mentioned by the within-bounden C. D., and was by him charged, for that the said A. B. [on at , &c., describing the offence, as in the warrant:] if, therefore, he, the said C. D., shall and do at the next general [quarter sessions of the peace, or, gaol delivery,] to be holden in and for the said county, prefer, or cause to be preferred, one bill of indictment for the said felony against the said A. B., and shall then also give evidence there concerning the same as well to the jurors that shall then inquire of the said felony, as also to them that shall pass upon the trial of the said A. B., that then the said recognizance to be void, or else to stand in full force and virtue.

Condition of recognizance to prosecute.

(No. 6.)

"The condition of the within [or, above] written recognizance, is such, that if the within [or, above] bounden E. F. shall personally appear at the next general [quarter sessions of the peace, or gaol delivery,] to be holden at , in and for the said county, and then and there give such evidence as he knoweth, upon a bill of indictment to be exhibited by C. D., of , yeoman, to the grand jury against A. B., late of , labourer, for [feloniously stealing , the property

Condition of recognizance to give evidence.

Replication.

of the said C. D., or stating shortly the offence,] and in case the said bill be found a true bill, then, if the said E. F. shall then and there give evidence to the jurors that shall pass on the trial of the said A. B., upon the said bill of indictment, and not depart thence without leave of the court; then this recognizance to be void, or else to remain in its full force."

Records, Stealing, &c. of—*See* **Larceny**, Vol. III. ; **Evidence by—***Evidence*, Vol. II. p. 42.

Recusant. *See ante*, **Popery**, p. 147 ; **Dissenters**, Vol. I. ; **Church**, Vol. I.

Re-examination. *See* **Evidence**, Vol. II. p. 91 ; **Examination**, Vol. II. p. 93.

Registers. *See ante*, **Parish Registers**, p. 5 ; **Evidence**, Vol. II p. 37, 38.

Regrating. *See* **Forestalling**, Vol. II.

Relations, when incompetent Witnesses. *See* **Evidence**, Vol. II. p. 66.

Religion. *See* **Church**, Vol. I. ; **Common Prayer**, Vol. I. ; **Zealousness**, Vol. III. ; **Popery**, *ante*, p. 147 ; **Dissenters**, Vol. I. ; *As to when Witness incompetent from—**See* **Evidence**, Vol. II. p. 64.

Remanding for Examination. *See* **Examination**, Vol. II. p. 99 ; **Commitment**, Vol. I.

Rent. *See* **Distress**, Vol. I.

Replication.

A Replication signifies the answer in pleading to the defendant's plea. Except sometimes to special pleas to indictments for not repairing highways, a special replication seldom occurs in criminal proceedings; and the common *similiter* to the general issue is the only replication usually adopted. *See* **Highways**, Vol. III.

Rescue.

[25 Geo. II. c. 37; 1 & 2 Geo. IV. c. 88; 9 Geo. IV. c. 31, s. 25.]

As to escapes, see *Escape*, Vol. I. p. 3 to 14; as to prison-breaking, see *Prison-Breaking*, *ante*, p. 229.

RESCOUS is an ancient French word, coming from *rescower*, that is, *recuperare*, to recover; and signifies a forcible setting at liberty, against law, a person arrested by the process or course of law. 1 *Inst.* 160. What a rescous is.

Rescue is a common-law felony, if the party rescued be a convicted felon. *R. v. Harwell*, R. & R. C. C. 458. It is a misdemeanor, if the party rescued be convicted of a misdemeanor. 1 *Hale*, 607.

It seems that it is necessary that the rescuer should have knowledge that the person is under arrest for a criminal offence, if he be in the custody of a private person: but if he be in the custody of an officer, there at his peril he is to take notice of it. 2 *Hale*, 606.

But it is said, that to rescue a felon taken on a general warrant, to answer what shall be objected against him, no cause being expressed in the warrant, is not felony. 1 *Hale*, 578.

Nor unless a felony hath been really done. *Hale's Sum.* 116.

A hindrance of a person to be arrested, that has committed felony, is a misdemeanor, but no felony: but if the party be arrested, and then rescued, if the arrest were for felony, the rescuer is a felon; if for treason, a traitor; if for trespass, fineable. *Hale's Sum.* 116; 2 *Haw.* c. 21, s. 7; R. & R. C. C. 458. Hindrance of arrest.

As to rescuing a distress, see *Distress*, Vol. I.; what amounts to, see *Knowles v. Blake*, 3 M. & P. 214; 5 *Bing.* 499, S. C.

Although a prison-breaker may be arraigned for that offence, before he be arraigned for the crime for which he was imprisoned, yet he who rescues one imprisoned for felony, cannot, according to the better opinion, be arraigned for such offence, as for a felony, till the principal offender be attainted; but he may be immediately proceeded against for a misprision, if the king pleases. 2 *Haw.* c. 21, s. 7. When it shall be tried.

Therefore, if the principal die before the attainder, he shall be fined and imprisoned. *Hale's Sum.* 116.

Also, if the principal be found not guilty, or guilty of a crime not capital, the rescuer ought to be discharged of felony: but he may be fined for the misdemeanor. 1 *Hale*, 598, 599. See *Accessary*, Vol. I.

An indictment of *rescous* must set forth the nature and cause of the imprisonment, and the special circumstances of the fact in question. 2 *Haw.* c. 21, s. 5. Indictment for.

Upon an indictment at Exeter Summer Assizes, 1795, for an assault and rescue, it appeared that the sheriff's officers having apprehended a man by virtue of a writ against him, a mob collected, and endeavoured by violence to rescue the prisoner. In the course of the scuffle, which was at ten o'clock at night, one of the bailiffs, having been violently assaulted, struck one of the assailants, a woman, and, as it was thought for some time, had killed her; whereupon, and before her recovery was ascertained, the constable was sent for, and charged with the custody of the bailiff who had struck the woman. The bailiffs, on the other hand, gave the constable notice of their authority, and represented the violence which had been previously offered to them; notwithstanding which, he proceeded to take them into custody upon the charge of murder, and at first offered to take care also of their prisoner, who, however, was soon rescued by the surrounding mob: and the woman having recovered, the bailiffs were released by the constable the next morning. *Heath, J.*, was clearly of opinion that the constable and his assistant were guilty of the assault and rescue, and directed the jury accordingly; who, however, acquitted the defendants. 1 *East's P. C.* 305.

By the 25 Geo. II. c. 37, s. 9, it is enacted, "that if any person or persons

Rescuing persons convicted of murder.

FORMS.

whatsoever shall by force set at liberty or rescue, or attempt to rescue or set at liberty, any person out of prison, who shall be committed for, or found guilty of murder, or rescue, or attempt to rescue, any person convicted of murder, going to execution, or during execution, every person so offending shall be deemed, taken, and adjudged to be guilty of felony, and shall suffer death without benefit of clergy."

And as to rescuing the body after execution, see *Punishment*, Vol. III. p. 257.

Rescuing persons charged with felony.

By the 1 & 2 Geo. IV. c. 88, intituled, "An Act for the Amendment of the Law of Rescue," sect. 1, after reciting that "whereas divers daring attempts have of late been made to effect the rescue or prevent the detention of persons charged with, or committed for or on suspicion of felony: and whereas it might tend more effectually to prevent the commission of such offences if further provisions were made for the punishment of persons who may hereafter be convicted thereof, as are hereinafter enacted:" it is enacted, that "if any person shall rescue, or aid and assist in rescuing, from the lawful custody of any constable, officer, headborough, or other person whomsoever, any person charged with, or suspected of, or committed for any felony, or on suspicion thereof, then if the person or persons so offending shall be convicted of felony, and be entitled to the benefit of clergy, (a) and be liable to be imprisoned for any term not exceeding one year, it shall be lawful for the court by or before whom any such person or persons shall be convicted, to order and direct, in case it shall think fit, that such person or persons, instead of being so fined and imprisoned as aforesaid,† shall be transported beyond the seas for seven years, or be imprisoned only, or be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not less than one, and not exceeding three, years."

† Sic.

Rescuing convicts.

As to rescuing convicts, see the 56 Geo. III. c. 63, s. 44; *post*, *Transportation*.

Assaults on peace officers, or to prevent the arrest of offenders, punishable with hard labour.

By the 9 Geo. IV. c. 31, s. 25, it is enacted, "That where any person shall be charged with and convicted of any of the following offences as misdemeanors; that is to say, of any assault with intent to commit felony, of any assault upon any peace-officer, or revenue-officer, in the due execution of his duty, or upon any person acting in and for such officer; of any assault upon any person with intent to resist or prevent the lawful apprehension or detainer of the party so assaulting, or of any other person, for any offence for which he or they may be liable by law to be apprehended or detained; or of any assault committed in pursuance of any conspiracy to raise the rate of wages; in any such case the court may sentence the offender to be imprisoned, with or without hard labour, in the common gaol or house of correction, for any term not exceeding two years, and may also (if it shall so think fit) fine the offender, and require him to find sureties for keeping the peace."

See further, as to this enactment, forms as to *Assaults*, Vol. I. p. 278.

There are also special penalties enacted for rescuing offenders against particular statutes, which belong not to this general title.

Outlawry.

Upon the return of a *rescous*, process of outlawry shall issue. 2 *Haw. c.* 27, s. 113; *ante*, p. 239, 240.

Forms.

(No. 1.)

Commitment for rescue. (b)

Commencement as usual, *ante*, p. 71, form No. 1.] *on, &c., at, &c., whilst C. D., a constable, was conveying one E. F. to the common gaol at , under and by virtue of a warrant of commitment of one of his majesty's justices of the peace, for having [feloniously stolen the goods of J. N.,] did unlawfully assault and beat the said C. D., and did then and there [feloniously,] unlawfully, and forcibly, and against the will of the said C. D., rescue the said E. F., out of the custody of the said C. D. And you, the said keeper, &c. [Conclude as usual, as ante, p. 71, form No. 1.]*

(a) See as to clergy being abolished, *Clergy*, Vol. I.

The word "feloniously" should be omitted in all cases (excepting murder, see the 25 Geo. II. c. 37, s. 9, *ante*, p. 273, 274), where the party is not convicted of the offence; and also in cases where he has been convicted, if the offence be under felony.

(No. 2.)

— The jurors for our lord the king upon their oath present, that on the day of , in the year of the reign of , J. P., Esq., one of the justices of our said lord the king, assigned to keep the peace in and for the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, did make, direct, and deliver a warrant [or precept] in writing, to A. C., of , in the said county, [yeoman,] constable of the town of aforesaid, in the county aforesaid, by which said warrant he, the said A. C., the constable aforesaid, was commanded to take the body of A. O., late of , [yeoman,] and bring and have him, the said A. O., before the said J. P., to be examined by him, the said J. P., concerning [an assault said to have been committed by him, the said A. O., upon A. I., of , yeoman;] which said A. C., the constable aforesaid, afterwards, that is to say, on the day of , in the year aforesaid, at aforesaid, in the county aforesaid, by virtue of the said warrant, did take and arrest him, the said A. O., for the cause aforesaid, and him, the said A. O., in his custody, by virtue of the said warrant, then and there had: and that the said A. O., late of aforesaid, in the county aforesaid, [yeoman,] and B. O., late of the same. [yeoman,] well knowing the said A. O. so to be arrested as aforesaid, afterwards, to wit, on the said day of , in the year aforesaid, at aforesaid, in the county aforesaid, with force and arms, in and upon the said A. C., the constable aforesaid, then and there being in the peace of God and of our lord the king, and in the execution of his said office then and there being, did make an assault, and him, the said A. C., then and there did beat, wound, and ill-treat; and that the said B. O., him, the said A. O., out of the custody of the said A. C., and against the will of the said A. C., then and there, with force and arms, unlawfully did rescue, and put at large, to go where he would; and that the said A. O. himself, out of the custody of the said A. C., and against the will of the said A. C., then and there, with force and arms, unlawfully did rescue, and escape at large, to go where he would; in contempt of our said lord the king and his laws, to the great damage of the said A. C., to the evil example of all others, and against the peace of our said lord the king, his crown and dignity. [Add other counts, as the case may suggest.

Indictment for a rescue.

Restitution of Stolen Goods. See *Larceny*, Vol. III.

Returning from Transportation. See *Transportation*, *post*.

Rewards.

[7 Geo. IV. c. 64, s. 28, 29, 30.]

AS to the expenses of prosecuting, see *Costs*, Vol. I.

As to the offence of taking rewards to help to stolen goods, see *Larceny*, Vol. III.

The 7 Geo. IV. c. 64, s. 28, enacts, "that where any person shall appear to any court of oyer and terminer, gaol delivery, superior criminal court of a

Expenses.

Helping to stolen goods.

Court may order rewards to those who have been active in apprehending.

7 Geo. 4, c. 64.
In certain cases.

county palatine or court of great sessions, to have been active in or towards the apprehension of any person charged with murder, or with feloniously and maliciously shooting at, or attempting to discharge any kind of loaded fire-arms at any other person, or with stabbing, cutting, or poisoning, or with administering any thing to procure the miscarriage of any woman, or with rape, or with burglary or felonious housebreaking, or with robbery on the person, or with arson, or with horse-stealing, bullock-stealing, or sheep-stealing, or with being accessory before the fact to any of the offences aforesaid, or with receiving any stolen property knowing the same to have been stolen, every such court is hereby authorized and empowered, in any of the cases aforesaid, to order the sheriff of the county in which the offence shall have been committed to pay to the person or persons, who shall appear to the court to have been active in or towards the apprehension of any person charged with any of the said offences, such sum or sums of money as to the court shall seem reasonable and sufficient to compensate such person or persons for his, her, or their expenses, exertions, and loss of time, in or towards such apprehension; and where any person shall appear to any court of sessions of the peace to have been active in or towards the apprehension of any party charged with receiving stolen property, knowing the same to have been stolen, such court shall have power to order compensation to such person in the same manner as the other courts hereinbefore mentioned: provided always, that nothing herein contained shall prevent any of the said courts from also allowing to any such persons, if prosecutors or witnesses, such costs, expenses, and compensation, as courts are by this act empowered to allow to prosecutors and witnesses respectively."

Proviso as to
expenses.

Officer to be paid
8s. for the order,
and the reward
to be paid by the
sheriff, who is to
be repaid by the
treasurer.

And by s. 29 it is enacted, "that every order for payment to any person in respect of such apprehension as aforesaid, shall be forthwith made out and delivered by the proper officer of the court unto such person, upon being paid for the same the sum of 5s. and no more; and the sheriff of the county for the time being is hereby authorized and required, upon sight of such order, forthwith to pay to such person, or to any one duly authorized on his or her behalf, the money in such order mentioned; and every such sheriff may immediately apply for repayment of the same to the commissioners of his majesty's treasury, who, upon inspecting such order, together with the acquittance of the person entitled to receive the money thereon, shall forthwith order re-payment to the sheriff of the money so by him paid, without any fee or reward whatsoever."

Allowance may
be made to wid-
ow, child, or
parent, of a per-
son killed in en-
deavouring to ap-
prehend certain
offenders; to be
paid by the sheriff.

By s. 30, it is enacted, "that if any man shall happen to be killed in endeavouring to apprehend any person who shall be charged with any of the offences hereinbefore last mentioned, it shall be lawful for the court before whom such person shall be tried to order the sheriff of the county to pay to the widow of the man so killed, in case he shall have been married, or to his child or children, in case his wife shall be dead, or to his father or mother, in case he shall have left neither wife nor child, such sum of money as to the court in its discretion shall seem meet; and the order for payment of such money shall be made out and delivered by the proper officer of the court unto the party entitled to receive the same, or unto some one on his or her behalf, to be named in such order by the direction of the court; and every such order shall be paid by and repaid to the sheriff in the manner hereinbefore mentioned."

Repeal of prior
acts.

By this stat. the 4 W. & M. c. 8, and the 2d, 3d, and 4th sections of the 10 & 11 Wil. III. c. 23, are repealed. The statutes 5 & 6 Anne, c. 31, 58 Geo. III. c. 70, are wholly repealed, except the 7th section, regarding disorderly houses. See *Disorderly Houses*, Vol. I.

Riot—Unlawful Assembly—Training to Arms.

See *Assay*, Vol. I. *Assault*, Vol. I.

I. *What is a Riot, Rout, or Unlawful Assembly*, p. 277.

II. *Punishment for, and Expenses of Prosecution*, p. 280.

[3 Geo. IV. c. 114; 7 Geo. IV. c. 64, s. 23.]

III. *Injuries by Rioters*, p. 280.

[7 & 8 Geo. IV. c. 30, s. 8; 7 & 8 Geo. IV. c. 31.]

IV. *How Riots may be restrained by a Private Person*, p. 280.

V. *How restrained by a Constable, or other Peace Officer*, p. 281.

[1 Geo. IV. c. 37, s. 1.]

VI. *How restrained by one Justice*, p. 281.

[2 Edw. III. c. 3; 34 Edw. III. c. 1; 1 Geo. I. st. 2, c. 5.]

VII. *How restrained by two Justices*, p. 284.

[13 Hen. IV. c. 7; 2 Hen. V. c. 8; 19 Hen. 7, c. 13; 9 Geo. IV. c. 61, s. 20.]

VIII. *How restrained by Process out of Chancery*, p. 287.

[2 Hen. V. c. 8; 2 Hen. V. c. 9; 8 Hen. VI. c. 14.]

IX. *Seditious Meetings and Unlawful Assemblies*, p. 287 to 298.

[36 Geo. III. c. 8; 39 Geo. III. c. 79; 57 Geo. III. c. 19.]

X. *Training to Arms*, p. 299.

XI. *Forms*, p. 300.

[60 Geo. III. c. 1.]

I. What is a Riot, Rout, or Unlawful Assembly.

WHEN three persons or more shall assemble themselves together, with an intent mutually to assist one another against any who shall oppose them in the execution of some enterprise of a private nature, with force or violence, against the peace, or to the manifest terror of the people, whether the act intended were of itself lawful or unlawful; and if they only meet to such a purpose or intent, although they shall after depart of their own accord, without doing any thing, this is an *unlawful assembly*.

What is an unlawful assembly.

If after their first meeting they shall move forward towards the execution of any such act, whether they put their intended purpose in execution or not, this, according to the general opinion, is a *rout*.

What a rout.

And if they execute such a thing indeed, then it is a *riot*. (a) 1 *Haw.* c. 65, s. 1; *Dalt.* c. 136, p. 310, 311.

What a riot.

Three Persons or more—And, therefore, if the jury do acquit all but two, and find them guilty, the verdict is void, unless they be indicted *together with other rioters unknown*, because it finds them guilty of an offence whereof it is impossible that they should be guilty; for there can be no riot where there are no more persons than two. 2 *Haw.* c. 47, s. 8.

How many to constitute.

(a) See form, No. 2, *post.* p. 301.

WHAT IS A
RIOT, ROUT,
&c.
Who.

R. v. Scott and Hans, 3 Burr. 1262. Six persons were indicted; whereof two died before trial, two were acquitted, and two convicted. It was moved in arrest of judgment, for that two only could not be found guilty of a riot, unless they were indicted *together with other persons unknown*; which was not the case here; for it doth not appear that any others were guilty besides these two; here is no finding as to the two dead persons.—By Lord Mansfield. Six were indicted. Two of them are acquitted. Two are dead untried. The jury have found the other two guilty of a riot; consequently, it must have been with one or both of those who have not been tried; as it could not otherwise have been a riot.

Note.—In 1 *Haw.* p. 156, 157, 158, (folio edition,) the words *more than three persons* are three times over inserted instead of *three persons or more*; which is only remarked as an instance, that, in a variety of matter, it is impossible for the mind of man to be always equally attentive.

Women.
Infants.

Women are punishable as rioters; but infants, under the age of discretion, are not persons within the aforesaid description, punishable as rioters. 1 *Haw.* c. 65, s. 14.

The nature of the
assembly.

Assemble Themselves together—It seems agreed, that if a number of persons, being met together at a fair, or market, or church aisle, or on any other lawful and innocent occasion, happen, on a sudden quarrel, to fall together by the ears, they are not guilty of a riot, but of a sudden affray only, of which none are guilty but those who actually engage in it; because the design of their meeting was innocent and lawful, and the subsequent breach of the peace happened unexpectedly, without any previous intention concerning it. Yet it is said, that if persons, innocently assembled together, do afterwards, upon a dispute happening to arise among them, form themselves into parties, with promises of mutual assistance, and then make an affray, they are guilty of a riot; because, upon their confederating together with an intention to break the peace, they may as properly be said to be assembled together for that purpose from the time of such confederacy, as if their first coming together had been on such a design. 1 *Haw.* c. 65, s. 3.

An assembly of a man's friends for the defence of his person against those who threaten to beat him, if he go to such a market, &c. is unlawful; for he who is in fear of such insults must provide for his safety by demanding the surety of the peace against the persons by whom he is threatened, and not make use of such violent methods, which cannot but be attended with the danger of raising tumults and disorders, to the disturbance of the public peace. But an assembly of a man's friends at his own house, for the defence of the possession of it against such as threaten to make an unlawful entry, or for the defence of his person against such as threaten to beat him in his house, is indulged by law; for a man's house is looked upon as his castle. He is not, however, to arm himself and assemble his friends in defence of his close. Per *Heath, J.*, *R. v. the Bishop of Bangor*, *Shrewsbury Sum. Ass.* 1796. See 1 *Russ.* 362, and see the authorities there cited.

And the law is, that if any person encourages, or promotes, or takes part in riots, whether by words, signs, or gestures, or by wearing the badge or ensign of the rioters, he is himself to be considered a rioter; for in this case all are principals. Per *Mansfield, C. J.*, in *Clifford v. Brandon*, 2 *Campb.* 370.

In the Execution of some Enterprise of a Private Nature—It also seems agreed that the injury or grievance complained of and intended to be revenged or remedied by such an assembly must relate to some private quarrel only; as the inclosing of lands, in which the inhabitants of a town claim a right of common, or gaining the possession of tenements, the title whereof is in dispute, or such like matters relating to the interest or disputes of particular persons, and no way concerning the public; for, wherever the intention of such an assembly is to redress public grievances, as to pull down inclosures in general, or reform religion, and the like, it is high treason. 1 *Haw.* c. 65, s. 6.

Violence neces-
sary.

Against the Peace, or to the Terror of the People—It seems to be clearly agreed that in every riot there must be some such circumstances, either of actual force or violence, or at least of an apparent tendency thereto, as are

naturally apt to strike a terror into the people, as the show of armour, threatening speeches, or turbulent gestures; for every such offence must be laid to be done *in terrorem populi*. And from hence it clearly follows that assemblies at wakes, or other festival times, or meetings for exercise of common sports or diversions, as bull-baiting, wrestling, and such like, are not riotous. (b) 1 *Haw. c. 65, s. 5*; see 1 *M. & Ry. Mag. C. 106, note*. As to prize-fighting, see *R. v. Billingham and others*, 4 D. & R. M. C. 127; *ante*, *Fighting*, Vol. II.

But it is not necessary, in order to constitute this crime, that personal violence should have been committed. *Per Mansfield, C. J.*, in *Clifford v. Brandon*, 2 Campb. 369.

From the same ground also it seems to follow that it is possible for three persons or more to assemble together with an intention to execute a wrongful act, and also actually to perform their intended enterprise, without being rioters: as if a man assemble a meet company, to carry away a piece of timber or other thing, whereto he pretends a right, that cannot be carried without a great number, if the number be not more than are needful for such purpose, although another man hath better right to the thing so carried away, and that this act be wrong and unlawful, yet it is of itself no riot, except there be withal threatening words used, or other disturbance of the peace. 1 *Haw. c. 65, s. 5*; *Lamb. 178*; *Dalt. c. 137*.

Much more may any person, in a peaceable manner, assemble a meet company to do any lawful thing, or to remove or cast down any common nuisance: thus, every private man, to whose house or land any nuisance shall be erected, made, or done, may in peaceable manner assemble a meet company, with necessary tools, and may remove, pull, or cast down such nuisance, and that before any prejudice received thereby; and for that purpose, if need be, may also enter into another man's ground. Thus, a man erected a wear across a common river, where people have a common passage with their boats, and divers did assemble with spades, crows of iron, and other things necessary to remove the said wear, and make a trench in his land, that did erect the wear, to turn the water, so as they might the better take up the said wear, and they did remove the same nuisance; this was holden neither any forcible entry, nor yet any riot. *Dalt. c. 137*.

But in the cases aforesaid, if in removing any such nuisance the persons so assembled shall use any threatening words, (as to say, they will do it though they die for it, or such like words,) or shall use any other behaviour, in apparent disturbance of the peace, then it seemeth to be a riot; and therefore, where there is cause to remove any such nuisance, or to do any like act, it is the safest not to assemble any multitude of people, but only to send one or two persons, or if a greater number, yet no more than are needful, and only with meet tools, to remove, pull, or cast down the same, and that such persons tend their business only, without disturbance of the peace, or threatening speeches. *Dalt. c. 137*.

Whether the Act intended were of itself lawful or unlawful—It hath been generally holden that it is no way material, whether the act intended to be done by such an assembly be of itself lawful or unlawful: from whence it follows, that if three or more persons assist a man to make a forcible entry into lands, to which one of them has a good right of entry, or if the like number in a violent and tumultuous manner join together in removing a nuisance, or other thing which may lawfully be done in a peaceable manner, they are as properly rioters as if the act intended to be done by them were never so unlawful. 1 *Haw. c. 65, s. 7*; *Dalt. c. 137*.

Legality of intended act.

(b) But see in 2 *Chit. Crim. L. 494*, an indictment said to have been drawn in the year 1797 by a very eminent pleader, for the purpose of suppressing an ancient custom of kicking about foot-balls on a Shrove Tuesday, at Kingston-upon-Thames.

II. Punishment for, and Expenses of, Prosecution.

Punishment.

The punishment of persons guilty of a riot by the common law, is fine or imprisonment, or both; and by the 3 Geo. IV. c. 114, hard labour may be imposed, either in addition or lieu of other punishment. See *Hard Labour*, Vol. II.

By the 7 Geo. IV. c. 64, s. 23, the court may allow the expenses of a prosecution for a riot. See *R. v. Johnson*, *R. & M. C. C.* 173; *Costs*, Vol. I.

III. Injuries by Rioters, Punishment, &c.

Injuries by rioters.

By the 7 & 8 Geo. IV. c. 30, s. 8, it is enacted, "that if any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force demolish, pull down, or destroy, or begin to demolish, pull down, or destroy, any church or chapel, or any chapel for the religious worship of persons dissenting from the united Church of England and Ireland, duly registered or recorded, or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture, or in any branch thereof, or any steam-engine, or other engine, for sinking, draining, or working any mine, or any staith, building, or erection, used in conducting the business of any mine, or any bridge, waggon-way, or trunk for conveying minerals from any mine; every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon."

To buildings.

Machinery.

Engines.

Waggon-ways, &c., belonging to mines.

Death.

See the general clauses, *Malicious Injuries to Property*, Vol. III.

Repeal of former acts.

The 7 & 8 Geo. IV. c. 27, repeals the 9 Geo. III. c. 29, 52 Geo. III. c. 130, and 56 Geo. III. c. 125, and so much of the 1 Geo. I. st. 2, c. 5, as relates to any rioters demolishing or pulling down, or beginning to demolish or pull down, any of the buildings therein mentioned.

Liability of hundred.

As to remedies against the hundred, in case of damage done by rioters, see the 7 & 8 Geo. IV. c. 31; *Hundred*, Vol. III.

It is not a "beginning to demolish" a house within the meaning of the 7 & 8 Geo. IV. c. 30, s. 8, unless the jury be satisfied that the ultimate object of the rioters was to demolish the house; and that, if they had carried their intention into full effect, they would, in point of fact, have demolished it. *R. v. Thomas*, 4 C. & P. 237.

IV. How Riots may be restrained by a Private Person.

How restrained by a private person.

By the common law, any private person may lawfully endeavour to suppress a riot, by staying those whom he shall see engaged therein from executing their purpose, and also by stopping others whom he shall see coming to join them. However, it seems extremely hazardous for private persons to proceed to these extremities; and such violent methods seem only proper against such riots as savour of rebellion. 1 *Haw.* c. 65, s. 11.

In the riots of 1780, however, this matter was much misunderstood, and a general persuasion prevailed that no indifferent person could interpose without the authority of a magistrate; in consequence of which much mischief was done, which might otherwise have been prevented. So, there is a great difference between the right of a private person in cases of intended felony and of breach of the peace: it is lawful for a private person to do any thing to prevent the perpetration of a felony. *Vide per Heath, J.*, 2 B. & P. 264; *ante*, *Arrest*, Vol. I. p. 257.

V. How Restrained by a Constable or other Peace Officer.

By the common law, the sheriff, constable, and other peace-officers, may and ought to do all that in them lies, towards the suppressing of a riot, and may command all other persons to assist therein. 1 *Haw. c. 65, s. 11.*

The 1 Geo. IV. c. 37, s. 1, after reciting that "whereas doubts having arisen whether any person or persons can be compelled to act as special constables, except in any actual tumult, riot, or felony: and whereas it is expedient that justices of the peace should have the power of compelling certain persons to act as special constables, not only in case of actual tumult, riot, or felony, but also on the reasonable apprehension thereof, for the prevention of the same," enacts, "that from and after the passing of this act, in all cases where it shall be made to appear to any two or more justices of the peace, acting for any county, city, division, riding, or place, by the information on oath of five respectable householders of such county, city, division, riding, or place, that any tumult, riot, or felony has taken place, or is likely to take place, and may reasonably be apprehended, such justices may and are hereby authorized to call upon, nominate, and appoint, by precept in writing under their hands, any householders or other persons (not legally exempt from serving the office of constable), residing within their respective divisions, or the neighbourhood thereof, to act as special constables, for such time and in such manner as to the said justices shall seem fit and necessary for the preservation of the public peace, and for the prevention or suppression of any tumult, riot, or felony; and the said justices are hereby empowered to administer to such person so appointed the usual oaths administered by law to all special constables."

How restrained by a constable.

Cases in which magistrates are empowered to appoint special constables;

Sect. 2. "That in case any person (not legally exempted as aforesaid), so called upon, nominated, and appointed by such justices as aforesaid, shall neglect or refuse to take upon themselves the office, and to act as such special constable, such person so neglecting or refusing shall be liable to such and the same fines, penalties, and punishments, as persons refusing to take upon themselves the office of constable are now by law subject to."

who are compelled to act, under the same penalties for refusal as constables.

Sect. 3. "That it shall and may be lawful for the justices of the peace, assembled at the general or quarter sessions holden for any county, city, division, riding, or place, where special constables shall have been called out as aforesaid, to order and direct such reasonable allowances for trouble and expenses, to be made to any person or persons so called out by authority of this act, as to the said justices shall seem fit, which allowance the said justices may order the treasurer of such county, city, division, riding, or place, to pay to such persons as the said justices shall direct; and such treasurer shall, and he is hereby authorized and required, forthwith to pay the sum or sums of money so ordered and directed to be paid, to the person empowered to receive the same, and such treasurer shall be allowed the same in his accounts."

Justices at sessions to give allowance to said special constables.

Sect. 4. "That the court before which any indictments may be tried under the provisions of this act, shall have the power to award reasonable costs of trial to such persons as may prefer the said indictments, and may order the treasurer of such county, city, division, riding, or place, wherein such indictment shall be tried, to pay the sum or sums of money so ordered, to such persons as the said court shall direct; and such treasurer shall, and he is hereby authorized and required forthwith to pay the sum or sums of money, so ordered and directed to be paid, to the persons empowered to receive the same; and such treasurer shall be allowed the same in his accounts."

Courts may allow costs.

Sect. 5, makes it a public act.

Public act.

VI. How Restrained by one Justice.

By the common law, a justice of the peace has power to restrain rioters; and see 4 *D. & R. M. C. 127.*

By the 34 Edw. III. c. 1, the justices of the peace shall have power to restrain rioters, and to arrest and chastise them according to their offence; and cause them to be imprisoned and duly punished according to the law and cus-

34 Ed. 3, c. 1.

HOW RE-
STRAINED BY
ONE JUSTICE.

tom of the realm, and according to that which to them shall seem best to do, by their discretions and good advisement.

And this statute hath been liberally construed for the advancement of justice; for it hath been resolved, that if a justice find persons riotously assembled, he alone, without staying for his companions, hath not only power to arrest the offenders and bind them to their good behaviour, or imprison them if they do not offer good bail; but that he may also authorize others to arrest them by a bare verbal command, without other warrant; and that by force thereof, the person so commanded may pursue and arrest the offenders in his absence as well as presence. Also it is said that, after a riot is over, any one justice may send his warrant to arrest any person who was concerned in it, and also that he may send him to gaol till he shall find sureties for his good behaviour. 1 *Haw. c. 65, s. 16.*

But it seems to be agreed that no one justice hath any power by force of this statute either to record a riot upon his own view, or to take an inquisition thereof after it is over. Also, if one justice, proceeding upon this statute, shall arrest an innocent person as a rioter, it seemeth that he is liable to an action of trespass, and that the party arrested may justify the rescuing himself, because no single justice is by this statute made a judge of the said offence. But if a riot shall be committed by persons armed in an unusual manner, contrary to the statute of *Northampton*, 2 Edw. III. c. 3, and any one justice acting *ex-officio*, in pursuance of the statute, seize the armour, and imprison the offender, and make a record of the whole matter, such a record cannot be traversed, because it is made by one acting in a judicial capacity. And for the same reason, if a justice proceeding on the statute of the 15 Rich. II., against forcible entries and detainers, shall upon his own view record a riot, which shall be committed in the making of any such forcible entry or detainer, a riot so recorded cannot be traversed. Also, if a justice acting as a judge by any statute whatsoever empowering him so to do, make a record upon his view of a riot committed in his presence, such record shall not be traversed; for the law gives such uncontrollable credit to all matters of record made by any judge of record as such, that it will never admit of an averment against the truth thereof. 1 *Haw. c. 65, s. 17.*

1 Geo. 1, st. 2, c. 5.

But if the rioters are above the number of twelve, the offence is greatly enhanced, and the power of one justice very much enlarged, by the 1 Geo. I. st. 2, c. 5, commonly called the Riot Act, and intitled, "An Act for Preventing Tumults and Riotous Assemblies, and for the more speedy and effectual Punishing the Rioters." Sect. 1, after reciting that, "whereas of late many rebellious riots and tumults have been in divers parts of this kingdom, to the disturbance of the public peace, and the endangering of his majesty's person and government, and the same are yet continued and fomented by persons disaffected to his majesty, presuming so to do, for that the punishments provided by the laws now in being are not adequate to such heinous offences; and by such rioters his majesty and his administration have been most maliciously and falsely traduced, with an intent to raise divisions, and to alienate the affections of the people from his majesty: therefore, for the preventing and suppressing of such riots and tumults, and for the more speedy and effectual punishing the offenders therein:" enacts, "that if any persons, to the number of twelve or more, being unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace, at any time after the last day of July, in the year of our Lord 1715, and being required or commanded by any one or more justice or justices of the peace, or by the sheriff of the county, or his under-sheriff, or by the mayor, bailiff or bailiffs, or other head officer, or justice of the peace of any city or town corporate, where such assembly shall be, by proclamation to be made in the king's name, in the form hereinafter directed, to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, shall, to the number of twelve or more (notwithstanding such proclamation made), unlawfully, riotously, and tumultuously remain or continue together by the space of one hour after such command or request made by proclamation, that then such continuing together to the

Twelve persons or more unlawfully assembled, after the last of July, 1715, and not dispersing after commanded by one justice, &c., by proclamation,

number of twelve or more, after such command or request made by proclamation, shall be adjudged felony without benefit of clergy, and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy." See as to clergy, which is now abolished, *Clergy*, Vol. I.

1 Geo. I., st. 2, c. 8.
shall be adjudged felons without benefit of clergy.

Sect. 2. "That the order and form of the proclamation that shall be made by the authority of this act, shall be as hereafter followeth, (that is to say) the justice of the peace, or other person authorized by this act to make the said proclamation shall, among the said rioters, or as near to them as he can safely come, with a loud voice command, or cause to be commanded, silence to be, while proclamation is making, and after that, shall openly and with loud voice make or cause to be made proclamation in these words, or like in effect:—

How the proclamation shall be made.

"Our sovereign lord the king chargeth and commandeth all persons, being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the act made in the first year of King George, for preventing tumults and riotous assemblies.

The proclamation.

"God save the King."

"And every such justice and justices of the peace, sheriff, under-sheriff, mayor, bailiff, and other head-officer aforesaid, within the limits of their respective jurisdictions, are hereby authorized, empowered and required, on notice or knowledge of any such unlawful, riotous, and tumultuous assembly, to resort to the place where such unlawful, riotous, and tumultuous assemblies shall be, of persons to the number of twelve or more, and there to make or cause to be made proclamation in manner aforesaid."

Justices, &c., to resort to the place.

Sect. 3. "That if such persons so unlawfully, riotously, and tumultuously assembled, or twelve or more of them, after proclamation made in manner aforesaid, shall continue together and not disperse themselves within one hour, that then it shall and may be lawful to and for every justice of the peace, sheriff, or under-sheriff of the county where such assembly shall be, and also to and for every high or petty constable, and other peace-officer within such county, and also to and for every mayor, justice of the peace, sheriff, bailiff, and other head-officer, high or petty constable, and other peace-officer of any city or town corporate where such assembly shall be, and to and for such other person and persons as shall be commanded to be assisting unto any such justice of the peace, sheriff, or under-sheriff, mayor, bailiff, or other head-officer aforesaid (who are hereby authorized and empowered to command all his majesty's subjects of age and ability to be assisting to them therein) to seize and apprehend, and they are hereby required to seize and apprehend, such persons so unlawfully, riotously, and tumultuously continuing together after proclamation made, as aforesaid, and forthwith to carry the persons so apprehended before one or more of his majesty's justices of the peace of the county or place where such persons shall be so apprehended, in order to their being proceeded against for such their offences according to law; and that if the persons so unlawfully, riotously, and tumultuously assembled, or any of them, shall happen to be killed, maimed, or hurt, in the dispersing, seizing, or apprehending, or endeavouring to disperse, seize, or apprehend them, by reason of their resisting the persons so dispersing, seizing, or apprehending, or endeavouring to disperse, seize, or apprehend them, that then every such justice of the peace, sheriff, under-sheriff, mayor, bailiff, head-officer, high or petty constable, or other peace-officer, and all and singular persons, being aiding and assisting to them, or any of them, shall be free, discharged, and indemnified, as well against the king's majesty, his heirs, and successors, as against all and every other person and persons, of, for, or concerning the killing, maiming, or hurting of any such person or persons so unlawfully, riotously, and tumultuously assembled, that shall happen to be so killed, maimed, or hurt, as aforesaid."

Persons so assembled, and not dispersing within an hour, to be seized.

And if they make resistance, the persons killing them, &c., to be indemnified.

Sect. 5. "That if any person or persons do, or shall, with force and arms, wilfully and knowingly oppose, obstruct, or in any manner wilfully and knowingly lett, hinder, or hurt, any person or persons that shall begin to proclaim, or go to proclaim, according to the proclamation hereby directed to be made, whereby such proclamation shall not be made, that then every such opposing,

Opposing, &c., the making such proclamation, felony.

HOW RESTRAINED BY TWO JUSTICES.

And persons so assembled, if the proclamation be hindered, shall nevertheless suffer as felons.

obstructing, letting, hindering, or hurting such person or persons, so beginning or going to make such proclamation, as aforesaid, shall be adjudged felony without benefit of clergy, and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy; and that also every such person or persons so being unlawfully, riotously, and tumultuously assembled, to the number of twelve, as aforesaid, or more, to whom proclamation should or ought to have been made if the same had not been hindered, as aforesaid, shall likewise, in case they or any of them, to the number of twelve or more, shall continue together, and not disperse themselves within one hour after such lett or hindrance so made, having knowledge of such lett or hindrance so made, shall be adjudged felons, and shall suffer death as in case of felony, without benefit of clergy." As to clergy, which is now abolished, see *Clrugg*, Vol. I.

This act to be read at the quarter sessions, &c.

Prosecution within twelve months.

Sheriffs, &c., in Scotland, to have the same power as justices, &c., have in England.

Punishment of persons offending in Scotland.

Damages of any church, &c., pulled down, &c., in Scotland, how to be recovered, and of whom.
† *Sic*.

To what places in Scotland this act shall extend.

Sect. 7. "That this act shall be openly read at every quarter session, and at every leet or law-day."

Sect. 8. "That no person or persons shall be prosecuted by virtue of this act, for any offence or offences committed contrary to the same, unless such prosecution be commenced within twelve months after the offence committed."

Sect. 9. "That the sheriffs and their deputies, stewards and their deputies, bailies of regalities and their deputies, magistrates of royal boroughs, and all other inferior judges and magistrates, and also all high and petty constables, or other peace-officers of any county, stewartry, city, or town, within that part of Great Britain called Scotland, shall have the same powers and authority for putting this present act in execution within Scotland, as the justices of the peace and other magistrates aforesaid respectively have by virtue of this act, within and for the other parts of this kingdom; and that all and every person and persons who shall at any time be convicted of any of the offences aforementioned, within that part of Great Britain called Scotland, shall for every such offence incur and suffer the pain of death, and confiscation of moveables: and also that all prosecutions for repairing the damages of any church or chapel, or any building for religious worship, or any dwelling-house, barn, stable, or out-house, which shall be demolished or pulled down in whole or in part, within Scotland, by any persons unlawfully, riotously, or tumultuously assembled, shall and may be recovered by summary action, at the instance of the party aggrieved, his or her heirs or executors, against the county, stewartry, city, or borough respectively, where such disorders shall happen, the magistrates being summoned in the ordinary form, and the several counties and stewartries called by edictal citation at the market-cross of the headborough of such county or stewartry respectively, and that in general, without mentioning their names and designations."

Sect. 10. "That this act shall extend to all places for religious worship, in that part of Great Britain called Scotland, which are tolerated by law, and where his Majesty King George, the Prince and Princess of Wales, and their issue, are prayed for in express words."

VII. *How Restrained by Two Justices.*

13 Hen. 4, c. 7.

By the 13 Hen. IV. c. 7, s. 1, if any riot, assembly, or rout of people, against the law be made, the justices, three or two of them at the least, and the sheriff, or under sheriff, shall come with the power of the county, if need be.

2 Hen. 5, c. 8.

And, by the 2 Hen. V. c. 8, s. 2, the king's liege people, being sufficient to travel, shall be assistants to them, upon reasonable warning, to ride with them in aid to resist such riots, routs, and assemblies, on pain of imprisonment, and to make fine and ransom to the king.

If any Riot, Assembly, or Rout of People, against the Law, be made—It is said that the justices are not only empowered hereby to raise the power of the county to assist them in suppressing a riot, which shall happen within their own view or hearing, but also that they may safely do it, upon a credible information given them of a notorious riot happening at a distance, whether there

were any such riot in truth or not; for it may be dangerous for them to stay till they can get certain information of the fact: but they seem to be punishable for alarming the country in this manner, without such probable ground for their proceeding as would induce a reasonable man to think it necessary and convenient. 1 *Haw. c. 65, s. 22.*

Assembly—It seems clear from hence, that if the justices, in going towards the place where they have heard that there is a riot, shall meet persons coming from thence riotously arrayed, they may arrest them for being assembled together in such an unlawful manner, and also make a record thereof; for the statute extends to all other unlawful assemblies whatsoever, as well as to riots. 1 *Haw. c. 65, s. 22.*

The King's liege People—Except women, clergymen, persons decrepit, and infants under the age of fifteen.

To Resist such Riots—And also to arrest the rioters, and conduct them to prison.

And shall Arrest them—13 Hen. IV. c. 7, s. 1.

And, if they shall escape, they may take them on a fresh pursuit; but they cannot at another time award any process against them on the record, but ought to send the record into the King's Bench, that process may issue thereon from thence: yet there seems to be no doubt but that they may arrest them for their trespass on the aforesaid statute (34 Edw. III.), in order to compel them to find sureties for their good behaviour. 1 *Haw. c. 65, s. 24.*

And, by the 13 Hen. IV. c. 7, s. 1, the same justices and sheriff, or under-sheriff, shall have power to record (c) that which they shall find so done in their presence against the law; by which record the offenders shall be convict in the same manner and form as is contained in the statute of forcible entries. (d) 13 Hen. 4, c. 7.

Shall have Power to Record—And this they may do, whether the offenders be in custody at the same time, or have escaped. 1 *Haw. c. 65, s. 24.*

Shall be Convict—And it seemeth to be certain that the record of a riot, expressly mentioned to have happened within the view of the justices by whom it is recorded, is a conviction of so great authority, that it can no way be traversed, however little ground of truth there might be to affirm that any riot at all was committed, or however innocent the parties may be of the fact recorded against them. 1 *Haw. c. 65, s. 25.*

However, it seemeth clear that if, in such a record of a riot, it be contained that the party was guilty therein of a felony, or maim, or rescous, the party shall be concluded thereby as to the riot only, and not as to any of the other matters; because the justices have by this statute a judicial authority over no other offences except riots, routs, and unlawful assemblies. 1 *Haw. c. 65, s. 26.*

And, inasmuch as such a final record is a conviction of the parties, as to all such matters as are properly contained in it, it ought to be certain both as to the time and place of the offence, and the number of persons concerned therein, and the several kinds of weapons made use of by them, and all other circumstances of the fact: for, since the parties are excluded from denying the truth of such record, and have no other remedy to defend themselves against it, but only by advantage of the insufficiency of what is contained in it, they may justly demand the benefit of excepting to it, if it do not expressly show both that they are guilty within the meaning of the statute, and also how far they are guilty, and that the justices have pursued the power so given them by the said statute. From the same ground it seems also to follow, that such a record may be excepted against, if it do not appear to have been made by the sheriff or under-sheriff, in concurrence with the justices. 1 *Haw. c. 65, s. 26.*

And this record ought to remain with one of the justices, and shall not be left amongst the records of the sessions; it being made out of sessions, and not appointed to be certified thither. *Dalt. c. 82.*

In the same Manner and Form as is contained in the Statute of Forcible Entries—That is, the statute of the 15 Rich. II. c. 2. And thereupon it is said

HOW RE-
STRAINED BY
TWO JUSTICES.

that the offenders, being under the arrest of the justices, and also convicted by a record of their offence, ought immediately to be committed to gaol by the same justices, till they shall make fine and ransom to the king; which can be assessed by no other justices of the peace except those by whom the record of the offence was made. 1 *Haw. c. 65, s. 28.*

And this fine, *Mr. Dalton (c. 82)* says, the justices shall cause to be estreated into the Exchequer, that so it may be levied to the king's use; and then they are to deliver the offenders again.

But *Mr. Hawkins* says, that it hath been questioned whether the justices can safely dismiss the offenders upon their paying such a fine as shall be imposed upon them, without some judgment for their imprisonment as well as fine: because it is enacted by the 2 Hen. VIII. c. 8, that such rioters attainted of great and heinous riots shall have one whole year's imprisonment at the least, without being let out of prison by bail or mainprize; and that the rioters attainted of petty riots shall have imprisonment as best shall seem to the king or to his council. 1 *Haw. c. 65, s. 35.*

13 Hen. 4, c. 7.

And, by the 13 Hen. IV. c. 7, s. 1, if the offenders be departed before the coming of the said justices and sheriff, or under-sheriff, the same justices, three or two of them, shall diligently inquire (e) within a month after such riot, assembly, or rout of people so made, and thereof shall hear and determine according to the law of the land.

The same Justices—It is generally said that any justices of the county may take such an inquiry, whether they dwell near the place where the riot happened, or at a distance, or whether they went to view the riot or not: for the statute ought to be construed as largely as the words will bear in favour of the justices' power in the suppressing of such riots; and therefore those words in the statute, "that the same justices shall inquire," ought to be thus expounded: that the same justices who were before empowered to raise the posse shall inquire, and that is, any justices in the county. 1 *Haw. c. 65, s. 32.*

19 Hen. 7, c. 13.

Shall diligently Inquire—This is, by a jury; in order to which it is enacted by the 19 Hen. VII. c. 13, that the sheriff, on their precept directed to him, shall, on pain of 20*l.*, return twenty-four persons, whereof every of them shall have lands and tenements within the shire to the yearly value of 20*s.* of charter-land or freehold, or 26*s.* 8*d.* of copyhold, or of both, over and above all charges; and he shall return upon every juror in issues, at the first, 20*s.*, and at the second, 40*s.*

Note.—*Charter-land* had its name from a particular form in the charter or deed, which, ever since the reign of Henry VIII., hath been disused. 1 *Inst. 6.*

Within a Month—That is, if they do not make inquiry within a month, they are punishable for the neglect. Yet they may inquire after the month; for the lapse of a month doth not determine their authority, but only subjects them to a penalty. 2 *Salk. 593.*

Shall Hear and Determine according to the Law of the Land—And therefore they may award process under their own teste against those who shall be indicted before them of any of the offences above mentioned, according to the form of this statute; and also may award the like process for the trial of a traverse of such an inquisition; and do all other things in relation thereunto, which are of course incident to all courts of record. 1 *Haw. c. 65, s. 34.*

And the riot being so found by inquisition, the justices must make a record thereof in writing of such their inquiry or presentment found before them; which record also is to remain with one of the justices. *Dalt. c. 82.*

13 Hen. 4, c. 7.

And, by the 13 Hen. IV. c. 7, s. 2, if the truth cannot be found in the manner as is aforesaid, then, within a month then next following, the justices, three or two of them, and the sheriff or under-sheriff, shall certify before the king and his council all the deed and circumstances thereof, which certificate shall be of the like force as the presentment of twelve men; upon which certi-

(e) Form, No. 10, *post.*

ficate the offender shall be put to answer, and shall be punished according to the discretion of the king and his council.

Sect. 3. And, if they do traverse the matter so certified, the certificate and traverse shall be sent into the King's Bench to be tried.

And, by the 19 Hen. VII. c. 13, if the offence be not found, by reason of any maintenance or embracery of the jurors, then the same justices and sheriff, or under-sheriff, shall, in the same certificate, certify the names of the maintainers and embracers, with their misdemeanors. 19 Hen. 7, c. 13.

Shall Certify—And it seemeth certain that such certificate, being in nature of an indictment at the common law, ought to comprehend the certainty of time, place, and persons, and other material circumstances, both of the riot and maintenance. 1 *Haw. c. 65, s. 13.*

Before the King and his Council—It seems clear, by the council being here distinguished both from the Chancery and King's Bench, that the certificate ought to be made to the privy council board, and not to either of those courts, which, in some statutes relating to judicial proceedings, are taken for the king's council. 1 *Haw. c. 65, s. 41.*

And, by the 2 Hen. V. c. 8, the said justices and other officers shall execute their offices aforesaid at the king's costs, in going and continuing in doing their said offices, by payment thereof to be made by the sheriff, by indentures betwixt the said sheriff and justices, and other officers aforesaid, whereof the sheriff, upon his account in the Exchequer, shall have due allowance. 2 Hen. 5, c. 8.

In order to the defraying of which, the said statute directs the fines of the offenders to be enlarged, and thereout the sheriff may pay the charges of the said justices, and of the jury, that is, for their diet, and the sheriff's fees, and the like. *Dalt. c. 82.*

Sect. 4. And the justices dwelling nighest in the county where such riot, assembly, or rout shall be, together with the sheriff or under-sheriff, shall do execution of the said statute of the 13 Hen. IV., every one upon pain of 100*l.* to the king.

The Justices Dwelling Nighest—Although these only are liable to this penalty, yet if any others, on notice, shall neglect to supply their default, they are finable at discretion. 1 *Haw. c. 65, s. 48.*

But if any justices, who do not dwell nearest to the place, do actually execute the statute, they excuse all the rest. 1 *Haw. c. 65, s. 46.*

Dwelling Nighest in the County—Therefore, if they dwell nighest, but in another county, they are not in danger of this penalty. 1 *Haw. c. 65, s. 45.*

Shall do Execution of the said Statute—That is, in the whole, and not in part only; as by recording a riot, and committing the parties. 1 *Haw. c. 65, s. 50.*

By the 9 Geo. IV. c. 61, s. 20, and 1 Wil. 4, c. 64, two justices may order the closing of doors of public-houses and beer-houses during riots. See *Albhouse*, Vol. I. p. 61, 82. Albhouses.

VIII. *How by Process out of Chancery.*

By the 2 Hen. V. c. 8, if default be found in the two justices, sheriff, or under-sheriff, then, at the instance of the party grieved, a commission shall be issued under the great seal, to inquire as well of the truth of the case for the complainant, as of such default. 2 Hen. 5, c. 8.

And by the 2 Hen. V. c. 9, and 8 Hen. VI. c. 14, rioters shall be taken by writ and proclamation out of chancery, on suggestion of two justices and the sheriff, of the common fame of such riot. 2 Hen. 5, c. 9.
8 Hen. 6, c. 14.

IX. *Seditious Meetings and Unlawful Assemblies.*

By the 39 Geo. III. c. 79, s. 1, after reciting that a traitorous conspiracy had long been carried on in conjunction with the person exercising the powers of 39 Geo. 3, c. 79.
Certain societies suppressed.

**SEDITIONOUS
MEETINGS, &c.**
30 Geo. 3, c. 79.

All societies shall be deemed unlawful, the members whereof shall be required to take any oath unlawful under 37 Geo. 3, c. 123, or any oath, test, &c., not authorized by law; or which shall have any members, committees, &c., not known to the society at large; or the names of all the members whereof shall not be entered in regular books; or which shall act in separate or distinct branches; and members thereof, and persons corresponding with or supporting them, guilty of an unlawful combination.

government in France, to overturn the laws and government in Great Britain and Ireland, it is enacted, that all societies, calling themselves United Englishmen, United Scotchmen, United Irishmen, and United Britons, and the society commonly called the London Corresponding Society, and all other corresponding societies of any other city, town, or place, shall be suppressed and prohibited. See the 57 Geo. III. c. 19, *post*, 294.

Sec. 2. "That, from and after the passing of this act, all and every the said societies, and also every other society now established, or hereafter to be established, the members whereof shall, according to the rules thereof, or to any provision or agreement for that purpose, be required or admitted to take any oath or engagement, which shall be an unlawful oath or engagement, within the intent and meaning of an act, passed in the thirty-seventh year of his majesty's reign, intituled, 'An Act for more effectually Preventing the Administering or Taking of Unlawful Oaths,' (A) or to take any oath not required or authorized by law; and every society, the members whereof, or any of them, shall take, or in any manner bind themselves by any such oath or engagement, on becoming or in consequence of being members of such society; and every society, the members whereof shall take, subscribe, or assent, to any test or declaration not required by law, or not authorized in manner hereinafter mentioned; and every society, of which the names of the members, or of any of them, shall be kept secret from the society at large, or which shall have any committee or select body so chosen or appointed, that the members constituting the same shall not be known by the society at large to be members of such committee or select body, or which shall have any president, treasurer, secretary, delegate, or other officer so chosen or appointed, that the election or appointment of such persons to such offices shall not be known to the society at large, or of which the names of all the members, and of all committees or select bodies of members, and of all presidents, treasurers, secretaries, delegates, and other officers, shall not be entered in a book or books to be kept for that purpose, and to be open to the inspection of all the members of such society; and every society which shall be composed of different divisions or branches, or of different parts, acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate, or other officer, elected or appointed by or for such part, or to act as an officer for such part; shall be deemed and taken to be unlawful combinations and confederacies; and every person who, from and after the passing of this act, shall become a member of any such society, or who, being a member of any such society at the passing of this act, shall afterwards act as a member thereof; and every person who, after the passing of this act, shall directly or indirectly maintain correspondence or intercourse with any such society, or with any division, branch, committee, or other select body, president, treasurer, secretary, delegate, or other officer, or member thereof as such, or who shall, by contribution of money or otherwise, aid, abet, or support such society, or any members or officers thereof as such; shall be deemed guilty of an unlawful combination and confederacy."

Sec. 3. "That nothing herein contained shall extend to any declaration to be taken, subscribed, or assented to by the members of any society, in case the form of such declaration shall have been first approved and subscribed by two or more of his majesty's justices of the peace for the county, stewardry, riding, division, or place, where such society shall ordinarily assemble, and shall have been registered with the clerk of the peace, or his deputy, for such county, stewardry, riding, division, or place, for which there shall be paid a fee of 1s. and no more; but that such approbation of the justices as aforesaid shall remain valid and effectual no longer than until the next general session for such county, stewardry, riding, division, or place, unless the same shall, on application made by the parties concerned, be confirmed by the major part of the justices present at such general session; and if the same shall not be then and

Act shall not extend to declarations approved by two justices, and registered with the clerk of the peace; provided such approbation be confirmed at the next general quarter sessions.

there so confirmed, the provisions of this act shall from thenceforth extend to such declaration, and to all societies or persons subscribing the same, in so far as may relate to all acts which may be done by them, or any of them, subsequent to the holding of such general session."

**SEDITIONOUS
MEETINGS, &c.**
30 Geo. 3, c. 79.

Sect. 4. "That no person who, at or before the passing of this act, shall be, or shall have been a member of any such society, shall be liable to any pain or penalty for having been a member of such society at or before the passing of this act, in case such person shall not in any manner act as a member of such society at any time after the passing of this act."

Former members
not acting after
passing this act,
not liable to pen-
alty.

Sect. 5. "And whereas certain societies have been long accustomed to be holden in this kingdom under the denomination of lodges of Freemasons, the meetings whereof have been in great measure directed to charitable purposes;" it is enacted, "that nothing in this act shall extend to the meetings of any such society or lodge, which shall, before the passing of this act, have been usually holden under the said denomination and in conformity to the rules prevailing among the said societies of Freemasons."

Not to extend to
regular lodges of
Freemasons held
before passing
this act;

Sect. 6. "That this exemption shall not extend to any such society, unless two of the members composing the same shall certify, upon oath, (which oath any justice of the peace or other magistrate is hereby empowered to administer,) that such society or lodge has, before the passing of this act, been usually held under the denomination of a lodge of Freemasons, and in conformity to the rules prevailing among the societies or lodges of Freemasons in this kingdom; which certificate, duly attested by the magistrate before whom the same shall be sworn, and subscribed by the person so certifying, shall, within the space of two calendar months after the passing of this act, be deposited with the clerk of the peace for the county, stewardry, riding, division, shire, or place, where such society or lodge hath been usually held: provided, also, that this exemption shall not extend to any such society or lodge, unless the name or denomination thereof, and the usual place or places, and the time or times of its meetings, and the names and descriptions of all and every the members thereof, be registered with such clerk of the peace as aforesaid, within two months after the passing of this act, and also on or before the twenty-fifth day of March in every succeeding year."

but two members
of each lodge
shall certify the
same on oath, and
deposit such cer-
tificate within
two months with
the clerk of the
peace, with whom
the name of the
society, the names
of the members,
and the time and
place of meeting,
shall be registered
before March 25,
yearly.

Sect. 7. "That the clerk of the peace, or the person acting in his behalf, in any such county, stewardry, riding, division, shire, or place, is hereby authorized and required to receive such certificate, and make such registry as aforesaid, and to enrol the same among the records of such county, stewardry, riding, division, shire, or place, and to lay the same, once in every year, before the general session of the justices for such county, stewardry, riding, division, shire, or place; and that it shall and may be lawful for the said justices, or for the major part of them, at any of their general sessions, if they shall so think fit, upon complaint made to them, upon oath, by any one or more credible persons, that the continuance of the meetings of any such lodge or society is likely to be injurious to the public peace and good order, to direct that the meetings of any such society or lodge within such county, stewardry, riding, division, shire, or place, shall from thenceforth be discontinued; and any such meeting held, notwithstanding such order of discontinuance, and before the same shall, by the like authority, be revoked, shall be deemed an unlawful combination and confederacy under the provisions of this act."

Clerk of the peace
to lay such cer-
tificate and re-
gistry before the
general session
yearly, who may
order any lodge
to be discon-
tinued, if likely
to be injurious to
the public peace.

Sect. 14. "That it shall be lawful for any two or more justices of the peace, acting for any county, stewardry, riding, division, city, town, or place, upon evidence on oath, that any meeting of any society, hereby declared to be an unlawful combination and confederacy, or any meeting for any seditious purpose, hath been held, after the passing of this act, at any house, room, or place, licensed for the sale of ale, beer, wine, or spirituous liquors, to adjudge and declare the license or licenses for selling ale, beer, wine, or spirituous liquors, granted to the person or persons keeping such house, room, or place, to have been forfeited; and the person or persons so keeping such house, room, or

Justices, on oat
of an unlawf
meeting being
held, may de-
clare the licens
of the house for-
feited (a).

(a) See Form (No. 11), *post*.

SEDITIONOUS
MEETINGS, &c.

39 Geo. 3, c. 79.

Every place for lecturing, debating, or reading books, newspapers, &c., where money shall be paid, shall be deemed a disorderly house under 36 Geo. 3, c. 8, unless previously licensed.

Penalty on persons opening such houses, conducting the proceedings, debating, furnishing books, paying or collecting money for admission, &c., 20*l*.

Person appearing as master liable to prosecution, although not the real occupier of the house.

place, shall, from and after the day of the date of such adjudication and declaration, be subject and liable to all and every the penalties and forfeitures for any act done after that day, which such person or persons would be subject and liable to, if such license or licenses had expired, or otherwise determined on that day."

Sect. 15. "And whereas divers places have of late been used for delivering lectures or discourses, and holding debates, which are not within the provisions of the act, passed in the 36th year of his majesty's reign, for the more effectually preventing seditious meetings and assemblies, (c) but which lectures, discourses, or debates, have in many instances been of a seditious and immoral nature; and other places for the purpose of reading books, pamphlets, newspapers, or other publications; be it further enacted, that every house, room, field, or other place, at or in which any lecture or discourse shall be publicly delivered, or any public debate shall be had on any subject whatever, for the purpose of raising or collecting money or any other valuable thing from the persons admitted, or to which any person shall be admitted by payment of money, or by any ticket or token of any kind delivered in consideration of money or any other valuable thing, or in consequence of paying or giving, or having paid or given, or having agreed to pay or give, in any manner, any money or other valuable thing, or where any money or other valuable thing shall be received from any person admitted either under pretence of paying for any refreshment or other thing, or under any other pretence, or for any other cause, or by means of any device or contrivance whatever; and every house, room, or place, which shall be opened or used as a place of meeting, for the purpose of reading books, pamphlets, newspapers, or other publications, and to which any person shall be admitted by payment of money, or by any ticket or token of any kind delivered in consideration of money or other valuable thing, or in consequence of paying or giving, or having paid or given, or having agreed to pay or give, any money, or other valuable thing, or where any money or other valuable thing shall be received from any person admitted either under pretence of paying for any refreshment or other thing, or under any other pretence, or for any other cause, or by means of any device or contrivance whatever; shall be deemed a disorderly house or place, within the intent and meaning of the said act, passed in the 36th year of his majesty's reign, for the more effectually preventing seditious meetings and assemblies, unless the same shall have been previously licensed in manner hereinafter mentioned; and the person by whom such house, room, field, or place, shall be opened or used, for any of the purposes aforesaid, shall forfeit the sum of 100*l*. for every day or time that such house, room, field, or place, shall be opened or used as aforesaid to such person as will sue for the same, and be otherwise punished as the law directs in cases of disorderly houses; and every person managing or conducting the proceedings, or acting as moderator, president, or chairman, at such house, room, field, or place, so opened or used as aforesaid, or therein debating, or delivering any discourse or lecture, or furnishing or delivering any book, pamphlet, newspaper, or other publication as aforesaid; and also every person who shall pay, give, collect, or receive, or agree to pay, give, collect, or receive any money, or any thing, for or in respect of the admission of any person into any such house, room, field, or place, or shall deliver out, distribute, or receive any such ticket or tickets, or token or tokens as aforesaid, knowing such house, room, field, or place to be opened or used for any such purpose aforesaid, shall, for every such offence, forfeit the sum of 20*l*."

Sect. 16. "That any person who shall at any time hereafter appear, act, or behave him or herself as master or mistress, or as the person having the command, government, or management of any such house, room, field, or place as aforesaid, shall be deemed and taken to be a person by whom the same is opened or used as aforesaid, and shall be liable to be sued or prosecuted, and

(c) This act of 36 Geo. III. c. 8, was to continue for three years, from the 18th of December, 1793, and from

thence to the end of the then next session of Parliament.

punished as such, notwithstanding he or she be not in fact the real owner or occupier thereof."

Sect. 17. "That it shall be lawful for any justice or justices of the peace of any county, stewardry, city, borough, town, or place, who shall, by information upon oath, have reason to suspect that any house, room, field, or place, or any parts or part thereof, are or is opened or used for the purpose of delivering lectures or discourses, or for public debate, or for the purpose of reading books, pamphlets, newspapers, or other publications, contrary to the provisions of this act, to go to such house, room, field, or place, and demand to be admitted therein; and in case such justice or justices shall be refused admittance to such house, room, field, or place, or any part thereof, the same shall be deemed a disorderly house or place, within the intent and meaning of this act, and of the said recited act of the 36th year aforesaid; (d) and all and every the provisions hereinbefore, and in the said recited act contained, respecting any house, room, field, or place, therein or hereinbefore declared to be a disorderly house or place, shall be applied to such house, room, field, or place, where such admittance shall have been refused as aforesaid; and every person refusing such admittance shall forfeit the sum of 20l."

Sect. 18. "That it shall be lawful for two or more justices of the peace for the county, stewardry, city, borough, town, or place, where any house, room, or other building, shall be intended to be opened for any of the purposes aforesaid, by writing under their hands and seals, at their general sessions of the peace, or at any special session to be held for the particular purpose, to grant a license to any person or persons desiring the same, to open such house, room, or other building, for the purpose of delivering for money any such lectures or discourses as aforesaid, on any subjects, the same being clearly expressed in such license, or for the purpose of reading books, pamphlets, newspapers, or other publications; for which license a fee of 1s., and no more, shall be paid, and the same shall be in force for the space of one year, and no longer, or for any less space of time, therein to be specified; and which license it shall be lawful for the justices of the peace of the same county, stewardry, city, borough, town, or place, at any general sessions of the peace, to revoke and declare void, and no longer in force, by any order of such justices; a copy whereof shall be delivered to, or served upon the person to whom the said license so revoked shall have been granted, or shall be left at the house, room, or building, for which such license shall have been granted; and thereupon such license shall cease and determine, and be thenceforth utterly void and of no effect."

Sect. 19. "That it shall be lawful for any justice or justices of the peace of any county, stewardry, city, borough, town, or place, where any such house, room, or other building shall be licensed, as herein provided, to go to such house, room, or building, so licensed, at the time of delivering any such lecture or discourse therein as aforesaid, or at the time appointed for delivering any such lecture or discourse, or whilst such house, room, or building shall be opened or used, or during the time appointed for using the same as a place for reading books, pamphlets, newspapers, or other publications as aforesaid, and demand to be admitted therein; and in case such justice or justices shall be refused admittance to such house, room, or building, the same shall be deemed, notwithstanding any such license as aforesaid, a disorderly house or place, within the meaning of this act; and all and every the provisions hereinbefore contained, respecting any house, room, field, or place, hereinbefore declared to be a disorderly house or place, shall be applied to such house, room, or building so licensed as aforesaid, where such admittance shall have been refused as aforesaid; and every person refusing such admittance shall forfeit the sum of 20l."

Sect. 20. "That it shall be lawful for any two justices of the peace acting for any county, stewardry, riding, division, city, town, or place, upon evidence, on oath, that any house, room, or place, so licensed and opened as aforesaid, is commonly used for the purpose of delivering there lectures or discourses of a seditious or immoral tendency, or that books, pamphlets, newspapers, or other

**SEDITIONOUS
MEETINGS, &c.**
30 Geo. 3, c. 79.

Justices, by information on oath, suspecting any place is opened for lecturing, &c. may demand admittance, and if refused, the place shall be deemed disorderly, and the person so refusing shall forfeit 20l.

Two justices in session may grant licenses for lecturing or reading, which may be revoked at any general session.

A justice may demand admittance to any licensed place, and if refused, it shall be deemed disorderly, and the person so refusing shall forfeit 20l.

Any two justices on evidence on oath that any licensed place is used for lectures of a seditious or immoral tendency, &c., may declare the license forfeited.

**SEDITIONS
MEETINGS, &c.**

89 Geo. 3, c. 79.

Every alehouse, &c., to be deemed licensed for reading; but two justices, on evidence on oath that seditious or immoral publications are read, may declare the license forfeited.

Not to extend to lectures delivered in the universities, or the hall of any of the inns of court, &c., or by the professors in Gresham College. Payments to schoolmasters not deemed payments for admission to lectures.

Penalty for permitting unlawful meetings.

Offenders may be proceeded against, either summarily before one justice, or by indictment.

Persons convicted before a justice shall forfeit 20*l.*, or suffer three months' imprisonment, and persons convicted on indictment shall be transported for seven years.

publications of a seditious or immoral nature, are there commonly kept and delivered to be read, to adjudge and declare the license for opening the same to have been forfeited; and such license shall thereupon cease and determine, and shall thenceforth be utterly void and of no effect."

Sect. 21. "That every house, room, or place, licensed for the sale of ale, beer, wine, or spirituous liquors, shall also be deemed a house or place licensed for the purpose of reading books, pamphlets, and other publications, within the intent and meaning of this act; but nevertheless, it shall be lawful to and for any two or more justices of the peace for the county, stewardry, riding, division, city, borough, town, or place, where such house, room, or place shall be, upon evidence on oath that books, pamphlets, or other publications of a seditious or immoral nature are usually distributed, for the purpose of being read at such house, room, or place, to adjudge and declare the license or licenses for selling ale, beer, wine, or spirituous liquors, under the authority whereof such house, room, or place shall be used for the purpose of selling ale, beer, wine, or spirituous liquors, to have been forfeited, (e) and the person or persons so keeping such house, room, or place, shall, from and after the day of the date of such adjudication and declaration, be subject and liable to all and every the penalties and forfeitures which such person or persons would be subject and liable to, if such license or licenses had expired, or otherwise determined, on that day, for any act done after that day."

Sect. 22. "That nothing in this act contained shall extend, or be construed to extend, to any lecture or discourses to be delivered in any of the universities of these kingdoms, by any member thereof, or any person authorized by the chancellor, vice-chancellor, or other proper officers of such universities respectively, or to any lecture or discourse to be delivered in the public hall of any of the inns of court or chancery, by any person authorized by the benchers of the inns of court, or by the professors in Gresham College; and that no payment made to any schoolmaster, or other person by law allowed to teach and instruct youth, in respect of any lectures or discourses delivered by such schoolmaster or other person, for the instruction only of such youth as shall be committed to his instruction, shall be deemed a payment of money for admission to such lectures or discourses, within the intent and meaning of this act."

Sect. 13. "That if any person shall knowingly permit any meeting of any society hereby declared to be an unlawful combination or confederacy, or of any division, branch, or committee of such society, to be held in his or her house or apartment, such person shall, for the first offence, forfeit the sum of 5*l.*, and shall, for any such offence committed after the date of his or her conviction for such first offence, be deemed guilty of an unlawful combination and confederacy in breach of this act."

Sect. 8. "That every person who, at any time after the passing of this act, shall, in breach of the provisions thereof, be guilty of any such unlawful combination and confederacy, as in this act is described, shall and may be proceeded against for such offence in a summary way, either before one or more justice or justices of the peace for the county, stewardry, riding, division, city, town, or place, where such person shall happen to be, or by indictment to be preferred in the county, riding, division, city, town, or place in England wherein such offence shall be committed, or by indictment in the court of justice, or in any of the circuit courts in Scotland, if the offence shall be committed in Scotland; and every person being convicted (f) of any such offence, on the oath of one or more credible witness or witnesses, by such justice or justices as aforesaid, shall be by him or them committed to the common gaol or house of correction for such county, stewardry, riding, division, city, town, or place, there to remain, without bail or mainprize, for the term of three calendar months, or shall be by such justice or justices adjudged to forfeit and pay the sum of 20*l.*, as to such justice or justices shall seem meet; and in case such sum of money shall not be forthwith paid into the hands of such justice or justices, he or they shall, by warrant under his or their hand and seal, or hands and

(e) Form (No. 11), *post*.

(f) Form (No. 12), *post*.

seals, cause the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and for want of sufficient distress, shall commit such offender to the common gaol or house of correction of such county, stewardry, riding, division, city, town, or place as aforesaid, for any time not exceeding three calendar months; and every person convicted of any such offence upon indictment by due course of law, shall and may be transported for the term of seven years, in the manner provided by law for transportation of offenders, or imprisoned for any time not exceeding two years, as the court before whom such offender shall be tried shall think fit; and every such offender who shall be ordered to be transported, shall be subject and liable to all laws concerning offenders ordered to be transported."

Sec. 9. "That it shall be lawful for the justice or justices of the peace, by or before whom any persons shall, in pursuance of this act, be convicted of any unlawful combination or confederacy, and such justice and justices is and are hereby authorized and empowered (if he or they shall see cause) to mitigate and lessen the punishment hereinbefore directed to be inflicted upon any offender against this act, so convicted as aforesaid, so as such punishment be not thereby reduced to less than one-third of the punishment hereby directed to be inflicted as aforesaid, whether such punishment shall be by imprisonment or fine."

Sec. 10. "That any person who shall be prosecuted before any justice or justices of the peace, in a summary way, for any offence against this act, and shall be convicted or acquitted by such justice or justices, shall not afterwards be prosecuted, or be liable to be prosecuted, by indictment or otherwise, for the same offence; and so in like manner any person who shall be convicted or acquitted upon any indictment for any offence against this act, shall not afterwards be prosecuted, or be liable to be prosecuted before any justice or justices of the peace, in a summary way, for the same offence."

Sec. 11. "That nothing in this act contained shall extend to prevent any prosecution by indictment, or otherwise, for any thing which shall be an offence within the intent and meaning of this act, and which might have been so prosecuted if this act had not been made, unless the offender shall have been prosecuted for such offence under this act, and convicted or acquitted of such offence; save only, that no person shall be prosecuted for having been, before the passing of this act, a member of any society hereby declared to be an unlawful combination and confederacy, if such person shall not in any manner have acted as a member of such society after the passing of this act."

Sec. 34. "That no person shall be prosecuted or sued for any penalty imposed by this act, unless such prosecution shall be commenced, or such action shall be brought, within three calendar months next after such penalty shall have been incurred."

Sec. 35. "That any pecuniary penalty imposed by this act, exceeding the sum of 20*l.*, may be sued for and recovered, by any person who will sue for the same, by action of debt, in any of his majesty's courts of record at Westminster, if such penalty shall have been incurred in England or Wales, or the town of Berwick-upon-Tweed, and in his majesty's Court of Exchequer in Scotland, if such penalty shall have been incurred in Scotland; in which action it shall be sufficient to declare or allege that the defendant is indebted to the plaintiff in the sum of 20*l.* (being the sum demanded by such action), being forfeited by an act, made and passed in the 39th year of the reign of his majesty King George the Third, intituled, 'An Act' [here set forth the title of the act], and the plaintiff, if he shall recover in any such action, shall have his full costs; and any pecuniary penalty imposed by this act, and not exceeding the sum of 20*l.*, and for the recovery whereof no provision is hereinbefore contained, shall and may be recovered before any justice or justices of the peace for the county, stewardry, riding, division, city, town, or place, in which the same shall be incurred, or the person having incurred the same shall happen to be, in a summary way; and in case such last-mentioned penalty shall not be forthwith paid, such justice or justices shall, by warrant under his or their hand and seal, or hands and seals, and directed to any constable or other peace-officer, cause

**SEDITIONOUS
MEETINGS, &c.**
39 Geo. 3, c. 79.

Justices may int-
litate punishment,

Persons prosecuted either be-
fore a justice, or
indicted, not
liable to other
prosecution.

Offenders may be
indicted as hereto-
fore, if not pro-
secuted under
this act.

Prosecutions to
be commenced
within three
months after pe-
nalty is incurred.

Recovery of pe-
nalties.

SEDITIONOUS
MEETINGS, &c.
39 Geo. 3, c. 79.

the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and in case no sufficient distress can be had or made, such justice or justices shall commit the offender to the common gaol or house of correction for such county, stew- artry, riding, division, city, borough, town, or place, there to remain, without bail or mainprize, for any time not exceeding six calendar months, nor less than three calendar months."

Application of
penalties.

Sect. 36. "That all pecuniary penalties and forfeitures imposed by this act shall, when recovered, either by action in any court, or in a summary way be- fore any justice, be applied and disposed of in manner hereinafter mentioned; that is to say, one moiety thereof to the plaintiff in any such action, or the in- former before any justice, and the other moiety thereof to his majesty, his heirs, and successors."

Limitation of
actions.

Sect. 37. "That every action and suit which shall be brought or commenced against any justice or justices of the peace, constable, peace-officer, or other person or persons, for any thing done or acted in pursuance of this act, shall be commenced within three calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the de- fendant or defendants in every such action or suit shall and may plead the ge- neral issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defend- ant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if, upon de- murrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs; which he or they shall and may recover in such and the same manner as any defendant can by law in other cases."

General issue.

Venue.

Double costs.

Convictions, &c.,
to be in the forms
in the annexed
schedule (No. 1,
2, 3.)

Sect. 38. "That convictions by any justice or justices of the peace, for of- fences against this act, and adjudications of forfeitures of licenses to be made in pursuance of this act, and notices and certificates delivered and granted in pur- suance of this act, shall or may be in the several forms (h) set forth for such purposes respectively in the schedule to this act annexed."

Regulating the
place of public
meetings in West-
minster.

By the 57 Geo. III. c. 19, s. 23, (i) reciting, that "it is highly inexpedient that public meetings or assemblies should be held near the houses of Parlia- ment, or near his majesty's courts of justice in Westminster Hall, on such days as are hereinafter mentioned," it is enacted, "that it shall not be lawful for any person or persons to convene or call together, or to give any notice for con- vening or calling together, any meeting of persons consisting of more than fifty persons, or for any number of persons exceeding fifty, to meet in any street, square, or open place, in the city or liberties of Westminster, or county of Mid- dlesex, within the distance of one mile from the gate of Westminster Hall, save and except such parts of the parish of St. Paul's Covent Garden as are within the said distance, for the purpose or on the pretext of considering of or pre- paring any petition, complaint, remonstrance, declaration, or other address, to the king, or to his Royal Highness the Prince Regent, or to both houses or either house of Parliament, for alteration of matters in church or state, on any day on which the two houses or either house of Parliament shall meet and sit, or shall be summoned, or adjourned, or prorogued to meet or sit, nor on any day on which his majesty's Courts of Chancery, King's Bench, Common Pleas, and Exchequer, or any of them, or any judge of any of them, shall sit in Westminster Hall, any thing hereinbefore contained to the contrary notwith- standing; and that if any meeting or assembly, for the purposes or on the pre- texts aforesaid, of any persons shall be assembled or holden on any such day,

(h) Forms No. (12, 13), *post*.

(i) By sect. 22, the clauses and pro- visions of the act therein-before con-

tained were to continue in force until the 24th of July, 1818.

contrary to the intent and meaning of this enactment, such meeting or assembly shall be deemed and taken to be an unlawful assembly, by whomsoever, or in consequence of what notice soever, such meeting or assembly shall have been holden: provided that nothing in this enactment contained shall, by any construction whatever, be deemed or taken to apply to or affect any meeting convened, called, or holden for the election of members of Parliament, or any persons attending such meeting, or to any persons attending upon the business of either house of Parliament, or any of the said courts."

Sect. 24, after reciting, that "divers societies or clubs have been instituted in the metropolis, and in various parts of this kingdom, of a dangerous nature and tendency, inconsistent with the public tranquillity, and the existence of the established government, laws, and constitution of the kingdom, and the members of many such societies or clubs have taken unlawful oaths and engagements of fidelity and secrecy, and have taken or subscribed, or assented to, illegal tests and declarations; and many of the said societies or clubs elect, appoint, or employ committees, delegates, representatives, or missionaries, of such societies or clubs, to meet, confer, communicate, or correspond, with other societies or clubs, or with delegates, representatives, or missionaries of such other societies or clubs, and to induce and persuade other persons to become members thereof, and, by such means, maintain an influence over large bodies of men, and delude many ignorant and unwary persons into the commission of acts highly criminal; and whereas certain societies or clubs, calling themselves *Spenceans*, or *Spencean Philanthropists*, hold and profess for their object the confiscation and division of the land, and the extinction of the funded property of the kingdom; and whereas it is expedient and necessary that all such societies and clubs, as aforesaid, should be utterly suppressed and prohibited, as unlawful combinations and confederacies, highly dangerous to the peace and tranquillity of this kingdom, and to the constitution of the government thereof, as by law established:" enacts, "that from and after the passing of this act, all societies or clubs calling themselves *Spenceans*, or *Spencean Philanthropists*, and all other societies or clubs, by whatever name or description the same are called or known, who hold and profess, or who shall hold and profess, the same objects and doctrines, shall be, and the same are hereby, utterly suppressed and prohibited, as being unlawful combinations and confederacies against the government of our sovereign lord the king, and against the peace and security of his majesty's liege subjects."

Sect. 25 enacts, "that from and after the passing of this act, all and every the said societies or clubs, and also all and every other society or club, now established or hereafter to be established, the members whereof shall be required or admitted to take any oath or engagement which shall be an unlawful engagement within the meaning of an act passed in the thirty-seventh year of his majesty's reign, intituled, 'An Act for more effectually Preventing the Administering and Taking of Unlawful Oaths,' or within the meaning of an act passed in the fifty-second year of his present majesty's reign, intituled, 'An Act to render more effectual an Act passed in the Thirty-Seventh Year of his present Majesty, for Preventing the Administering and Taking of Unlawful Oaths,' or to take any oath not required or authorized by law; and every society or club, the members whereof, or any of them, shall take or in any manner bind themselves by any such oath or engagement, on becoming, or in order to become, or in consequence of being, a member or members of such society or club; and every society or club, the members or any member whereof shall be required or admitted to take, subscribe, or assent to, or shall take, subscribe, or assent to, any test or declaration not required or authorized by law, in whatever manner or form such taking or assenting shall be performed, whether by words, signs, or otherwise, either on becoming, or in order to become, or in consequence of being, a member or members of any such society or club; and every society or club that shall elect, appoint, nominate, or employ, any committee, delegate or delegates, representative or representatives, missionary or missionaries, to meet, confer, or communicate with any other society or club, or with any committee, delegate or delegates, representative or representatives, missionary or missionaries, of such other society or club, or to induce or per-

SEDITIONOUS
MEETINGS, &c.

57 Geo. 3, c. 19.

Proviso for meetings convened for election of members of Parliament.

Spencean societies or clubs, &c., suppressed and prohibited.

Societies taking unlawful oaths, &c., within

57 Geo. 3, c. 123,

52 Geo. 3, c. 104,

or requiring, &c., tests or declarations not required by law, or electing committees, delegates, &c., deemed guilty of unlawful combinations within
50 Geo. 3, c. 79.

**SEDITIONOUS
MEETINGS, &c.**

57 Geo. 3, c. 19.

Persons becoming
members of such
societies, &c.,

deemed guilty of
unlawful combina-
tions within
33 Geo. 3, c. 79,
and proceeded
against accord-
ingly.

Proviso for free-
masons' lodges,
and for declara-
tions approved
by two justices,
pursuant to
39 Geo. 3, c. 79,
and for meetings
or societies of
Quakers, or for
charitable pur-
poses.

39 Geo. 3, c. 79,
s. 2, not to ex-
tend to Quakers'
meetings, &c.

Person permit-
ting unlawful as-
semblies in his
house, &c.
First offence.
Penalty, 5*l*.
Further offence.
Combination.

Licenses of pub-
lic-houses where
unlawful clubs
are held, to be
forfeited,

suaue any person or persons to become members thereof, shall be deemed and taken to be unlawful combinations and confederacies, within the meaning of an act passed in the thirty-ninth year of the reign of his present majesty, intituled, 'An Act for the more effectual Suppression of Societies established for Seditious and Treasonable Purposes, and for better preventing Treasonable and Seditious Practices;' and shall and may be prosecuted, proceeded against, and punished, according to the provisions of the said act; and every person who, from and after the passing of this act, shall become a member of any such society or club, or who, after the passing of this act, shall act as a member thereof, and every person who, from and after the passing of this act, shall directly or indirectly maintain correspondence or intercourse with any such society or club, or with any committee or delegate, representative or missionary, or with any officer or member thereof, as such, or who shall, by contribution of money or otherwise, aid, abet, or support such society or club, or any members or officers thereof, as such, shall be deemed guilty of an unlawful combination and confederacy within the intent and meaning of the said act passed in the thirty-ninth year of his majesty's reign, 'For the more effectual Suppression of Societies established for Seditious and Treasonable Purposes, and for better preventing Treasonable and Seditious Practices;' and shall and may be proceeded against, prosecuted, and punished, according to the provisions of the said act, with regard to the prosecution and punishment of unlawful combinations and confederacies."

Sect. 26. "That nothing in this act contained shall extend, or be construed to extend, to any society or societies holden under the denomination of lodges of Freemasons, in conformity to the rules prevailing in such societies of Freemasons, provided such lodges shall comply with the rules and regulations contained in the said act of the thirty-ninth year of his present majesty, relating to such lodges of Freemasons; nor to any declaration to be taken, subscribed, or assented to by the members of any society, the form of which declaration shall have been first approved and subscribed by two or more justices of the peace, and confirmed by the major part of the justices present at a general session, or at a general quarter sessions of the peace, pursuant to the rules and regulations contained in the said act of the thirty-ninth year of his present majesty; nor shall extend or be construed to extend to any meeting or society of the people commonly called Quakers; or to any meeting or society formed or assembled for purposes of a religious or charitable nature only, and in which no other matter or business whatsoever shall be treated of or discussed."

Sect. 27. "And whereas in the said act of the thirty-ninth year of the reign of his present majesty, it is amongst other things enacted, 'That every society which shall be composed of different divisions or branches, or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate, or other officer elected or appointed by or for such part, or to act as an officer for such part, shall be deemed and taken to be unlawful combinations and confederacies;' "it is enacted, "that the said enactment shall not extend or be construed to extend to any meeting or society of the people commonly called Quakers, or to any meeting or society formed or assembled for purposes of a religious or charitable nature only, and in which no other matter or business whatsoever shall be treated of or discussed."

Sect. 28. "That if any person shall knowingly permit any meeting of any society or club hereby declared to be an unlawful combination or confederacy, or of any division, branch, or committee of such society or club, to be held in any house or apartment, building, or other place to him or her belonging, or in his or her possession or occupation, such person shall, for the first offence, forfeit the sum of 5*l*., and shall, for any such offence, committed after the date of his or her conviction for such first offence, be deemed guilty of an unlawful combination and confederacy, in breach of this act."

Sect. 29. "That it shall be lawful for any two or more justices of the peace, acting for any county, stewardry, riding, division, city, town, or place, upon evidence on oath that any meeting of any society or club hereby declared to be an unlawful combination and confederacy, or any meeting for any seditious

purpose, hath been held, after the passing of this act, at any house, room, or place, licensed for the sale of ale, beer, wine, or spirituous liquors, with the knowledge and consent of the person keeping such house, room, or place, to adjudge and declare the license or licenses for selling ale, beer, wine, or spirituous liquors, granted to the person or persons keeping such house, room, or place, to be forfeited; and the person or persons so keeping such house, room, or place, shall, from and after the day of the date of such adjudication and declaration, and notice thereof given to him, her, or them, be subject and liable to all and every the penalties and forfeitures for any act done after that day, which such person or persons would be subject and liable to, if such license or licenses had expired, or otherwise determined on that day."

**SEDITIONOUS
MEETINGS, &c.**
57 Geo. 3, c. 19.

and penalty.

Sect. 30. "That all or any of the pecuniary fines, penalties, or forfeitures, exceeding the sum of 20*l*. incurred under this act, in England, Wales, or Berwick-upon-Tweed, may be recovered by action of debt in any of his majesty's courts of record at Westminster, and in Scotland in the Court of Session there; and it shall be sufficient to declare in England or conclude in Scotland, that the defendant or defender is indebted to the plaintiff or pursuer in the sum of

Penalties exceed-
ing 20*l*., how to
be recovered.

(being the sum demanded by the said action), being forfeited by an act made in the fifty-seventh year of the reign of his present majesty, intituled, 'An Act for the more effectually Preventing Seditious Meetings and Assemblies;' and the plaintiff or pursuer, if he shall recover in such action, shall have his full costs or expenses; and any pecuniary penalty imposed by this act not exceeding the sum of 20*l*., and for the recovery whereof no provision is hereinbefore contained, shall and may be recovered before any justice or justices of the peace for the county, stewardry, riding, division, city, town, or place, in which the same shall be incurred, or the person having incurred the same shall happen to be, in a summary way; and in case such last-mentioned penalty shall not be forthwith paid, such justice or justices shall, by warrant under his or their hand and seal or hands and seals, and directed to any constable or other peace officer, cause the same to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and in case no sufficient distress can be had or made, such justice or justices shall commit the offender to the common gaol or house of correction for such county, stewardry, riding, division, city, borough, town, or place, there to remain without bail or mainprize, for any time not exceeding six calendar months, nor less than three calendar months: provided always, that no person shall be prosecuted or sued for any pecuniary penalty imposed by this act, unless such prosecution shall be commenced, or such action shall be brought, within three calendar months next after such penalty shall have been incurred."

57 Geo. 3, c. 19.

Penalties not
exceeding 20*l*.,
how to be recov-
ered.

Distress.

Limitation of
prosecution for
penalty.

Sect. 31. "That all pecuniary penalties and forfeitures imposed by this act shall, when recovered, either by action in any court, or in a summary way before any justice, be applied and disposed of in manner hereinafter mentioned; that is to say, one moiety thereof to the plaintiff in any such action, or to the informer before any justice, and the other moiety thereof to his majesty, his heirs and successors."

Application of
penalties.

Sect. 32. "That any action and suit which shall be brought or commenced against any justice or justices of the peace, constable, peace-officer, or other person or persons, in England, Wales, or the town of Berwick-upon-Tweed, for any thing done or acted in pursuance of this act, shall be commenced within three calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if,

Limitation of
actions.

General issue
may be plead

SEDITIONOUS MEETINGS, &c.

57 Geo. 3, c. 19.

Double costs.

Limitation of actions, &c., in Scotland.

Plea.

Treble costs.

Form of conviction.

Act not to affect other provisions made by law.

Proviso for persons having been members of any club previous to the passing of this act, &c.

No double prosecution.

Persons already in custody, &c. not discharged.

Power of the attorney-general and lord advocate and secretary of state to stay proceedings.

Act not to extend to Ireland.

60 Geo. 3, c. 6.

upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs; which he or they shall and may recover in such and the same manner as any defendant can by law in other cases."

Sect. 33. "That every action and suit which shall be brought or commenced against any person or persons in Scotland, for any thing done or acted in pursuance of this act, shall in like manner be commenced within three calendar months after the fact committed, and not afterwards, and shall be brought in the Court of Session in Scotland; and the defender or defenders may plead that the matter complained of was done in pursuance of this act, and may give this act and the special matter in evidence; and if such action or suit shall be brought or commenced after the time limited for bringing the same, then the same shall be dismissed; and in such case, or if the defender or defenders shall be assoilzied, or the pursuer or pursuers shall suffer the action or suit to fall asleep, or a decision shall be pronounced against the pursuer or pursuers upon the relevancy, the defender or defenders shall have treble costs or expenses; which he or they shall and may recover in such and the same manner as any defender can by law recover costs or expenses in other cases."

Sect. 34. "That convictions by any justice or justices of the peace for offences against this act, and adjudications of forfeitures of licenses to be made in pursuance of this act, shall or may be in the several forms set forth for such purposes respectively in the schedule to this act annexed, or in words to that effect." (k)

Sect. 35. "That nothing in this act contained shall be deemed to take away or abridge any provision already made by the law of this realm, or of any part thereof, for the suppression or punishment of any offence whatsoever described in this act."

Sect. 36. "That no person shall be prosecuted under this act, for having been, before the passing of this act, a member of any society or club declared hereby to be an unlawful combination and confederacy, if such person shall not in any manner have acted as a member of such society or club after the passing of this act; but that nothing in this act contained shall extend to prevent any prosecution, by indictment or otherwise, for any thing which shall be an offence within the intent and meaning of this act, and which might have been so prosecuted if this act had not been made: provided always, that no person who shall be prosecuted and convicted or acquitted of any offence against this act shall be subject or liable to be again prosecuted for the same offence: provided always, that nothing herein contained shall extend to discharge any person in custody at the time of passing this act, or who having been in custody shall have been discharged on bail or recognizance, from any prosecution which might have been had against such person if this act had not been made."

Sect. 37. "That in case any proceeding or prosecution shall be instituted, commenced, or prosecuted for any offence committed against the said act of the thirty-ninth year of his present majesty, or against this act, either by action, or by information before any justice or justices, or otherwise, it shall and may be lawful for his majesty's attorney-general for the time being, as to any such action, information, or other proceeding in England, or for the Lord Advocate of Scotland as to any such action, information, or other proceeding in Scotland, to order any such action, information, or other proceeding to be stayed; and in case of any judgment or conviction upon any such action, information, or proceeding, it shall and may be lawful for any one of his majesty's principal secretaries of state, by any order made for that purpose under his hand, to stay the execution of such judgment or conviction, or to mitigate or remit any fine or forfeiture, or any part thereof."

Sect. 39. This act not to extend to Ireland.

The 60 Geo. III. c. 6, relative to seditious meetings, having been in force five years, is now expired.

X. Training to Arms.

By the 60 Geo. III. c. 1, intituled, "An Act to prevent the Training of Persons to the Use of Arms, and to the Practice of Military Evolutions and Exercise," (11th December, 1819,) sect. 1, after reciting, that "whereas in some parts of the United Kingdom, men clandestinely and unlawfully assembled have practised military training and exercise, to the great terror and alarm of his majesty's peaceable and loyal subjects, and the imminent danger of the public peace;" it is enacted, "that all meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercise, movements, or evolutions, without any lawful authority from his majesty, or the lieutenant, or two justices of the peace for any county or riding, or of any stewardry, by commission or otherwise, for so doing, shall be, and the same are hereby prohibited, as dangerous to the peace and security of his majesty's liege subjects and of his government; and every person who shall be present at or attend any such meeting or assembly, for the purpose of training and drilling any other person or persons to the use of arms, or the practice of military exercise, movements or evolutions, or who shall train or drill any other person or persons to the use of arms, or the practice of military exercise, movements, or evolutions, or who shall aid or assist therein, being legally convicted thereof, shall be liable to be transported for any term not exceeding seven years, or to be punished by imprisonment not exceeding two years, at the discretion of the court in which such conviction shall be had; and every person who shall attend or be present at any such meeting or assembly as aforesaid, for the purpose of being, or who shall at any such meeting or assembly be trained or drilled to the use of arms, or the practice of military exercise, movements, or evolutions, being legally convicted thereof, shall be liable to be punished by fine and imprisonment not exceeding two years, at the discretion of the court in which such conviction shall be had."

60 Geo. 3, c. 1.

Meetings and assemblies of persons for the purpose of being trained, or of practising military exercises, or aiding therein, prohibited.



Punishment.

Persons so assembled may be dispersed, or detained and required to give bail, and prosecuted.

Scotland.

Sheriffs depute, &c., in Scotland, to have the same powers as magistrates, &c., in England.

Offenders may be prosecuted as if this act had not been made.

Limitation of actions.

Sect. 2. "That it shall be lawful for any justice of the peace, or for any constable or peace-officer, or for any other person acting in their aid or assistance, to disperse any such unlawful meeting or assembly as aforesaid, and to arrest and detain any person present at, or aiding, assisting, or abetting any such assembly or meeting as aforesaid; and it shall be lawful for the justice of the peace who shall arrest any such person, or before whom any person so arrested shall be brought, to commit such person for trial for such offence, under the provisions of this act, unless such person can and shall give sufficient bail for his appearance at the next assizes or general or quarter sessions of the peace, to answer to any indictment which may be preferred against him for any such offence against this act, in England and Ireland; and in Scotland every such person shall be arrested and dealt with according to the law and practice of that part of the United Kingdom in the case of a bailable offence."

Sect. 3. "That the sheriffs-depute and their substitutes, stewards-depute and their substitutes, justices of the peace, magistrates of royal burghs, and all other inferior judges and magistrates, and also all high and petty constables, or other peace officers of any county, stewardry, city, or town, within that part of the United Kingdom called Scotland, shall have such and the same powers and authorities for putting this present act in execution within Scotland, as the justices of the peace and other magistrates and peace officers and constables aforesaid respectively have, by virtue of this act, within and for other parts of the United Kingdom."

Sect. 4. "That nothing in this act contained shall extend to prevent any prosecution, by indictment or otherwise, for any thing which shall be an offence within the intent and meaning of this act, and which might have been so prosecuted if this act had not been made, unless the offender shall have been prosecuted for such offence under this act, and convicted or acquitted of such offence."

Sect. 5. "That any action or suit which shall be brought or commenced against any justice or justices of the peace, constable, peace officer, or other

TRAINING TO ARMS. 60 Geo. 3, c. 1.	person or persons, in that part of Great Britain called England, or in Ireland, for any thing done or acted in pursuance of this act, shall be commenced within six calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their actions after appearance, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, which he or they shall and may recover in such and the same manner as any defendant can by law in other cases."
General issue may be pleaded.	
Venue.	
Double costs.	
Limitation of actions, &c., in Scotland.	SECT. 6. "That every action or suit which shall be brought or commenced against any person or persons in Scotland, for any thing done or acted in pursuance of this act, shall in like manner be commenced within six calendar months after the fact committed, and not afterwards, and shall be brought in the court of session in Scotland; and the defender or defenders may plead that the matter complained of was done in pursuance of this act, and may give this act and the special matter in evidence; and if such action or suit shall be brought or commenced after the time limited for bringing the same, then the same shall be dismissed; and in such case, or if the defender or defenders shall be assoilzied, or the pursuer or pursuers shall suffer the action or suit to fall asleep, or a decision shall be pronounced against the pursuer or pursuers upon the relevancy, the defender or defenders shall have treble costs or expenses, which he or they shall and may receive † in such and the same manner as any defender can by law recover costs or expenses in other cases."
Plea.	SECT. 7. "That no person shall be prosecuted by virtue of this act for any thing done or committed contrary to the provisions hereinbefore contained, unless such prosecution shall be commenced within six calendar months after the offence committed."
Treble costs. † Sic.	As to what evidence is admissible to show the intent of persons meeting together in large assemblies, marching in military order, &c., see <i>R. v. Hunt and others</i> , 3 B. & A. 566; <i>Bedford v. Birley</i> , 3 Stark. Ev. 1510.
Limitation of prosecutions.	
Evidence.	

XI. Forms, List of.

- COMMITMENT for Riot, (No. 1.)
- INDICTMENT for like Offence, (No. 2.)—INDICTMENT for a Riot and Conspiracy to annoy Prosecutor, (No. 3.)
- COMMITMENT for riotously demolishing a House, &c. on 7 & 8 Geo. 4, c. 30, s. 8, (No. 4.)
- INDICTMENT for a like Offence, (No. 5.)
- RECORD of a Riot on view, (No. 6.)—COMMITMENT of Rioters on view, (No. 7.)
- PRECEPT to summon a Jury, (No. 8.)—Juror's Oath, (No. 9.)—INQUISITION, Indictment, or Presentment of Jury, (No. 10.)
- ADJUDICATION of Forfeiture of License to sell Ale, &c. by the 39 Geo. III. c. 79, (No. 11.)
- CONVICTION for an Unlawful Combination, &c. on the 39 Geo. III. c. 79, (No. 12.)
- GENERAL Form of Conviction by the 39 Geo. III. c. 79, (No. 13.)
- CONVICTION for an Unlawful Combination, &c. on the 57 Geo. III. c. 19, (No. 14.)
- ADJUDICATION of Forfeiture of License to sell Ale, &c. by the 57 Geo. III. c. 19, (No. 15.)
- CONVICTION for Offences subject to Pecuniary Penalties by the 57 Geo. III. c. 19, (No. 16.)

Forms.

(No. 1.)

Commencement as usual, ante, p. 71, form, No. 1., on, &c. with force and arms, at, &c. together with divers other evil-disposed persons, unlawfully, riotously, and routously, did assemble and gather together, to disturb the peace, and did then and there unlawfully, riotously, and routously, make a great noise, riot, and disturbance; and assault and beat one A. B., [according to the fact] to the great disturbance and terror of the king's subjects, and against the king's peace. And you, the said keeper, &c. Conclude as usual, ante, p. 71, form, No. 1, to the end.] Commitment for a riot.

(No. 2.)

— The jurors for our lord the king upon their oath present, that A. O., late of the parish of , in the county of , [yeoman]; B. O., late of the same place [yeoman]; C. O., late of the same place [yeoman]; and divers other persons, to the number of twelve and more, (to the jurors aforesaid as yet unknown,) on the day of , in the year of the reign of , at the parish aforesaid, with force and arms, unlawfully, riotously, and routously, did assemble and gather together, to disturb the peace of our said lord the king; [and, so being then and there assembled and gathered together, in and upon one A. I., in the peace of God and of our said lord the king then and there being, unlawfully, riotously, and routously, did make an assault, and him the said A. I. then and there unlawfully, riotously, and routously, did beat, wound, and ill treat [according to the fact], and other wrongs to the said A. I., then and there unlawfully, riotously, and routously did,] to the great damage of the said A. I., and against the peace of our said lord the king, his crown, and dignity. [Add other counts, as the case may suggest.] Indictment for a riot. (1)

(No. 3.)

— The jurors for our lord the king upon their oath present, that J. A., late of, &c., H. A., late of, &c., H. B., late of, &c., and D. P., late of, &c., together with divers other evil-disposed persons, to the number of [forty] and more, (to the jurors aforesaid as yet unknown,) on the day of , in the year of the reign of our Sovereign Lord [William the Fourth], by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, with force and arms, &c. at the parish of [St. M. L.], in the said county of S., did, unlawfully, riotously, routously, and tumultuously, assemble and gather together, to disturb the peace of our said lord the king, and, being so assembled and gathered together, did then and there unlawfully, riotously, routously, tumultuously, violently, and outrageously make great noises, riot, tumult, and disturbance, near to and about the dwelling-house of one G. F., and the dwelling-houses of divers other liege subjects of our said lord the king, there situate, and in and near to a certain public highway there, and did then and there unlawfully, riotously, routously, and tumultuously, stay and continue near to and about the said dwelling-house of the said G. F., and the said other persons, in the said highway, making such noises, riot, tumult, and disturbance, for a long space of time, to wit, for the space of [six] hours, then next following, to the great terror and disturbance, not only of the said G. F. and his family, and other the liege subjects of our said lord the king, there and thereabouts inhabiting, residing, and being, but of all the liege subjects of our said lord the king passing and repassing in and along the said public highway there, in contempt of our said lord the king and his laws, to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, on their oath aforesaid, further present, that the said J. H., &c., being persons of evil and turbulent dispositions, and maliciously intending and endeavouring to disturb and break the peace of our lord the now king, and to annoy and injure the said G. F., and a great number of his majesty's other quiet and peaceable subjects, and unlawfully, wickedly, and maliciously intending, devising, and endeavouring, as much as in them lay, to raise, create, and cause riots and breaches of the Second count. For inciting to riot.

(1) See other forms, 2 Chit. C. L.; and see form of commitment of persons for remaining together after proclamation under the Riot Act, 1 Geo. 1; Arch. Crim. Law; and see indictment for like offence.

FORMS.

peace, near to the said dwelling-house of the said G. H. and the dwelling-houses of divers other liege subjects of our said lord the king, situate in the county of S., and in and near to a certain public highway there, theretofore, to wit, on the day and year aforesaid, at the parish aforesaid, in the county aforesaid, unlawfully, wickedly, and maliciously incited, stirred up, and as much as in them lay, endeavoured and laboured to persuade and induce a great number of other liege subjects of our said lord the king, whose names to the jurors aforesaid are as yet unknown, with force and arms, unlawfully, riotously, routously, and tumultuously, to assemble and gather together, in order to make and commit great noises, riot, tumult, and disturbances, near to and about the said dwelling-houses of the said G. F., and the said other persons, in the said highway, and to terrify, disturb, and injure the said G. F. and his family, and many other of his majesty's liege, peaceable, and quiet subjects, in contempt of our said lord the king, in open violation of the laws, good order, and government of this realm, to the evil and pernicious example of all others, and against the peace of our said lord the king, his crown, and dignity.

Third count.
For conspiring to annoy prosecutor in his dwelling-house, and inciting others so to do.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said J. A., &c. being persons of evil name and fame, and of wicked and malicious minds and dispositions, and intending to annoy and injure the said G. F., on the day and year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully and wickedly did conspire, combine, confederate, and agree together, and with divers other evil-disposed persons, to the number of [forty] and more, whose names are as yet unknown to the jurors aforesaid, to attempt and endeavour, as much as in them lay, to annoy, harass, and disturb and injure the said G. F. and his family, in the quiet and peaceable occupation, use, possession, and enjoyment of his said dwelling-house there situate; and that the said J. A. &c., in pursuance of and according to the conspiracy, combination, confederacy, and agreement, so as aforesaid before had, on the same day and in the year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, did, in the quiet and peaceable occupation, use, possession, and enjoyment of the said dwelling-house of the said G. F., there situate, annoy, harass, disturb, and injure him the said G. F. and his family, by making, creating, and raising great noises, riot, tumult, and disturbance, near to and about the said dwelling-house, and by throwing and inciting divers others of his majesty's liege subjects to throw stones and other missiles against the said dwelling-house and through certain windows, parcel thereof, to the great damage of the said G. F., to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity.

Fourth count.

And the jurors aforesaid, further present, that the said J. A., &c. together with divers other evil-disposed persons, to the number of [forty] and more, (to the jurors aforesaid as yet unknown,) on the _____ day of _____, in the _____ year of the reign aforesaid, with force and arms, in the parish aforesaid, in the county aforesaid, unlawfully, riotously, routously, and tumultuously did assemble and gather together, to disturb the peace of our said lord the king, and being so assembled and gathered together, did then and there unlawfully, riotously, routously, tumultuously, violently, and outrageously make great noises, riot, tumult, and disturbance, near to and about the dwelling-house of one G. F., and the dwelling-houses of divers other liege subjects of our said lord the king, there situate, and near to a certain public highway there, and did then and there unlawfully, riotously, routously, and tumultuously stay and continue near to and about the said dwelling-house of the said G. F. and the said other persons in the said highway, making such their noises, riot, tumult, and disturbance, for a long space of time, to wit, for the space of six hours then next following, to the great terror and disturbance, not only of the said G. F. and his family, and the other liege subjects of our said lord the king there and thereabouts inhabiting, residing, and being, but of all the other subjects of our said lord the king, passing and repassing in and along the said public highway there, in contempt of our said lord the king and his laws, to the evil example of all others, and against the peace of our said lord the king, his crown, and dignity.

Fifth count.

And the jurors aforesaid, upon their oath aforesaid, further present, that the said J. A., &c. being persons of evil and turbulent dispositions, and maliciously intending and endeavouring to break the peace of our lord the now king, and to annoy and injure the said G. F., and a great number of his majesty's other quiet and peaceable subjects, and unlawfully, wickedly, and maliciously intending, devising, and endeavouring, as much as in them lay, to raise, create, and cause riots and breaches of the peace, near to the said dwelling-house of the said G. F., and the dwelling-houses of divers other liege subjects of our said lord the king, situate in the said county of S., and in and near to a certain public highway there, heretofore, to wit, on the day and year last aforesaid, at the parish aforesaid, in the county aforesaid, unlawfully, wickedly, and maliciously, as much as in them lay, incited, stirred up, and as much as in them lay, endeavoured and laboured to persuade and induce a great number of other liege subjects of our said lord

the king, whose names to the jurors aforesaid are as yet unknown, with force and arms, unlawfully, riotously, routously, and tumultuously to assemble and gather together, in order to make and commit great noises, riot, tumult, and disturbance near to and about the said dwelling-house of the said G. F., and the said other persons in the said highway, and to terrify, annoy, disturb, and injure the said G. F. and his family, and many other of his majesty's liege, peaceable, and quiet subjects, in contempt of our said lord the king, in open violation of the laws, good order, and government of this realm, to the evil and pernicious example of all others, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, upon their oath aforesaid, further present, that the said J. A. and, &c., being persons of wicked and malicious minds and dispositions, and contriving and intending to annoy and injure the said G. F., on the day and year last aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, unlawfully and wickedly did conspire, combine, confederate, and agree together, with divers other evil-disposed persons, whose names are as yet unknown to the jurors aforesaid, to attempt and endeavour, as much as in them lay, to annoy, harass, disturb, and injure the said G. F. and his family, in the quiet and peaceable occupation, use, possession, and enjoyment of his said dwelling-house, and that the said J. A. and, &c., in pursuance of and according to the conspiracy, combination, confederacy, and agreement as aforesaid, before had, on the same day and year last aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in the quiet and peaceable occupation, use, possession, and enjoyment of the said dwelling-house of the said G. F., there situate, did annoy, harass, disturb, and greatly injure him the said G. F. and his family, by making, creating, and raising great noises and disturbance, near to and about the said dwelling-house, and by throwing and inciting divers other of his majesty's liege subjects to throw stones and other missiles against the said dwelling-house and through certain windows, parcel thereof, to the great damage of the said G. F., to the evil example of all others, in contempt of our said lord the king and his laws, and against the peace of our said lord the king, his crown, and dignity. And the jurors aforesaid, on their oath aforesaid, further present, that the said J. A., &c., on the day and year last aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in and upon the said G. F., in the peace of God and our said lord the king then and there being, did make an assault, and him the said G. F. then and there did beat and ill-treat, and other wrongs to the said G. F. then and there did, to the great damage of the said G. F., and against the peace of our said lord the king, his crown, and dignity.

Sixth count.

Seventh count.
For an assault.

(No. 4.)

Commencement as usual, ante, p. 71, form, No. 1.], on, &c. at, &c. with divers other persons, unlawfully, riotously, and tumultuously, did assemble together, to the disturbance of the public peace; and, being so unlawfully, riotously, and tumultuously assembled together, as aforesaid, did unlawfully, feloniously, and with force, demolish, pull down, and destroy [or, begin to demolish, &c.], the dwelling-house of A. B., there situate [as to what property is within the act, see ante, p. 280, and describe it accordingly], against the form of the statute in that case made and provided. And you, the said keeper, &c. [As usual, as ante, p. 71 (No. 1), to the end.]

Commitment for riotously demolishing a house, or machinery, &c., on 7 & 8 Geo. 4, c. 26, s. 8. (m)

(No. 5.)

to wit. The jurors for our lord the king upon their oath present, that A. B., late of, &c. [labourer], C. D., late of, &c., E. F., late of, &c., together with divers other evil-disposed persons, to the number of twelve and more, to the jurors aforesaid unknown, on, &c., with force and arms, at, &c. aforesaid, unlawfully, riotously, and tumultuously did assemble together, to the disturbance of the public peace; and, being so unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace, as aforesaid, did then and there feloniously, unlawfully, and with force, demolish, pull down, and destroy, the [dwelling-house] of one A. B., there situate, in contempt of our lord the king and his laws, against the peace of our said lord the king, his crown, and dignity, and against the form of the statute in such case made and provided. [Add other counts as the case may suggest, and one count or more, stating the offence to have been the "beginning to demolish," &c.]

Indictment for a like offence.

FORMS.

(No. 6.)

Record of a riot
on view.

County of } Be it remembered, that on the day of , in the
year of the reign of , we, J. P. and K. P., Esqs., two of
the justices of our said lord the king assigned to keep the peace in the said county, and
A. S., Knight, sheriff of the said county, at the complaint and request of A. I., of
in the county aforesaid, [yeoman], in our proper persons, have come to [the man-
sion-house] of him, the said A. I., in aforesaid, and then and there do find
A. O., of , [yeoman], B. O., of , [yeoman], C. O., of , [yeoman],
and other malefactors and disturbers of the peace of our said lord the king, to us un-
known, in a warlike manner arrayed, to wit, with clubs, swords, and guns, unlawfully,
riotously, and routously assembled, and the same house besetting, many evils against
him, the said A. I., threatening, to the great disturbance of the peace of our said lord
the king, and terror of his people, and against the form of the statute in that case made
and provided. And therefore we, the aforesaid J. P., K. P., and A. S., the aforesaid
A. O., B. O., and C. O., do then and there cause to be arrested, and to the next gaol
of our said lord the king, in the county aforesaid, to be conveyed, by our view and re-
cord of the unlawful assembly, riot, and rout, aforesaid convicted, there to remain,
every and each of them respectively, until they shall severally and respectively have
paid to our said lord the king the several sums of 10l. each, which we do impose upon
them and every of them separately for their said offence. In testimony whereof, to this
our present record we do put our seals. Dated at aforesaid, the day and
year aforesaid.

(No. 7.)

Commitment of
the rioters upon
view.

County of } J. P. and K. P., Esqs., two of the justices of our said lord the king, as-
signed to keep the peace within the said county, and A. S., Knight,
sheriff of the said county, to the keeper of the gaol of our said lord the king at
in the said county, and to his deputy and deputies there, and to every of them, greeting.
Whereas, upon complaint made unto us by A. I., of , [yeoman], we did, this
present day of , go to the house of the said A. I., at aforesaid,
and there did see A. O., of , yeoman, B. O., of , yeoman, C. O., of
yeoman, and other malefactors to us unknown, assembled together in an
unlawful, routous, and riotous manner, to the terror of the people, and against the
peace of our said lord the king, and against the form of the statute in that case made
and provided. We do therefore send you by the bringers hereof the bodies of the said
A. O., B. O., and C. O., convicted of the said riot, rout, and unlawful assembly, by
our own view, testimony, and record; commanding you, in the name of our said lord
the king, to receive them into the said gaol, and them and every of them respectively
there safely to keep, until they and every of them shall respectively pay to our said lord
the king the several and respective sums of 10l. each, which we have set and imposed
upon them, and each and every of them separately, for the said offence. Given
under our hands and seals, at aforesaid, in the county aforesaid, the day and
year aforesaid.

(No. 8.)

Precept to sum-
mon a jury.

County of } J. P. and K. P., Esqs., two of the justices of our lord the king, assigned
to keep the peace in the county aforesaid, and also to hear and deter-
mine divers felonies, trespasses, and other misdemeanors, in the said county committed,
to the sheriff of the said county, greeting. On the behalf of our said lord the king, we
command you, that you cause to come before us, at , in the county aforesaid,
on the day of next ensuing, twenty-four honest and lawful men of the
county aforesaid, every one of which to have lands and tenements within the said county
to the yearly value of 20s. of charter-land or of freehold, or 26s. 8d. of copyhold, or
both, over and above all charges, to inquire for our said lord the king and for our in-
demnity in this behalf, upon their oath, of certain riots, routs, and unlawful assemblies,
at , in the county aforesaid, lately committed, as it is said; and that you
return upon every person so by you to be impanelled 20s. of issues at the aforesaid
day, to be by them respectively forfeited if they shall not appear and be sworn to in-
quire of the premises at the same time and place. And this you shall in nowise omit,
on pain of 20l. Given under our hands and seals, at aforesaid, in the county
aforesaid, the day of , in the year of the reign of .

(No. 9.)

You shall true inquiry and presentment make of all such things as shall come before you concerning a riot, rout, and unlawful assembly, said to have been lately committed at _____, in this county: you shall spare no one for favour or affection, nor grieve any one for hatred or ill will; but proceed herein according to the best of your knowledge, and according to the evidence that shall be given to you. So help you God.

The oath which your foreman hath taken on his part, you and every of you shall well and truly observe and keep on your parts. So help you God.

(No. 10.)

County of _____ } An inquisition for our lord the king, indented and taken at _____, in the county aforesaid, the _____ day of _____, in the _____ year of the reign of _____, by the oath of _____ honest and lawful men of the county aforesaid, before J. P. and K. P., Esqs., justices of our said lord the king, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, who say upon their oath aforesaid, that A. O., of _____, [yeoman], B. O., of _____, [yeoman], C. O., of _____, [yeoman], together with other malefactors and disturbers of the peace of our said lord the king, to the jurors aforesaid as yet unknown, on the _____ day of _____ now last past, at _____ aforesaid, in the county aforesaid, with force and arms, to wit, with clubs, swords, and guns, unlawfully, routously, and riotously did assemble, to disturb the peace of our said lord the king; and so, being then and there assembled and gathered together, the [mansion-house] of A. I., [yeoman], at _____ aforesaid, unlawfully, routously, and riotously did enter, and in and upon him, the said A. I., then and there unlawfully, routously, and riotously did make an assault, and him, the said A. I., then and there unlawfully, routously, and riotously did beat, wound, and ill treat, in disturbance of the peace of our said lord the king, and to the terror of his people, and against the form of the statute in such case made and provided.

We, whose names are hereunto set, the above-said jurors, do find this inquisition true.

We, the justices abovesaid, do hereby impose the fines here underwritten on the aforesaid offenders.

A. O. 20l.
B. O. 20l.
C. O. 20l.

A. B.
C. D.
&c.

(No. 11.)

_____ } Be it remembered, that on this _____ day of _____, in the _____ year of the reign of his present majesty, A. O., of _____, being a person licensed to sell [as the case may be], is duly convicted before us, two of his majesty's justices of the peace for the county of _____, in pursuance of an act of the thirty-ninth year of the reign of King George the Third, intituled, [set forth the title of the act], (s) for that he, the said A. O., of _____, at _____, did permit a meeting of a society [describing the society], which is an unlawful combination and confederacy within the intent and meaning of the said act, to be held at _____, being the house [as the case may be] of the said A. O., wherein he, the said A. O., is licensed to sell [as the case may be]. Wherefore we, the said _____, do adjudge and declare that the license [or, licenses, as the case may be] is [or, are] for such offence, forfeited. Given under our hands and seals, this _____ day of _____, in the year of our Lord _____, and in the _____ year of the reign of his majesty King _____.

Adjudication of forfeiture of license to sell ale, &c., by the 39 Geo. 3, c. 79. (o)

(No. 12.)

_____ } Be it remembered, that on this _____ day of _____, in the _____ year of the reign of _____, A. O., of _____, is duly convicted before me, [or, us], of his majesty's justices of the peace _____, is _____, Conviction of an unlawful combination and confederacy, by the 39 Geo. 3, c. 79. (o)

(s) "An Act for the more effectual and for better Preventing Treasonable Suppression of Societies established for and Seditious Practices."
Seditious and Treasonable Purposes; (o) The act gives this form.

FORMS.

for _____, in pursuance of an act of the thirty-ninth year of the reign of King George the Third [set forth the title of the act], for that the said A. O., after the passing of the said act, to wit, on the _____ day of _____, at _____, did, contrary to the said act, become a member of [or, as the case may be, act as a member of, or maintain correspondence or intercourse with, or, by contribution of money or otherwise, abet or support] a society [describing the society], which society is an unlawful combination and confederacy within the intent and meaning of the said act. Wherefore I [or, we], the said _____, do adjudge that he, the said A. O., do pay [or, be imprisoned] as a penalty for his offence, in pursuance of the said act. Given under my hand and seal [or, our hands and seals], this _____ day of _____, in the year of our Lord _____, and in the _____ year of the reign of his majesty King _____.

(No. 13.)

General form of a conviction, by the 30 Geo. 3, c. 79.

_____ } Be it remembered, that on this _____ day of _____, in the _____ to wit. } year of the reign of _____, A. O., of _____, is duly convicted before me _____ [or, us], _____ of his majesty's justices of the peace for _____, in pursuance of an act of the thirty-ninth year of the reign of King George the Third [set forth the title of the act], (b) for that the said A. O., on the _____ day of _____, at _____, did, contrary to the said act [as the case may be, specifying any offence against the act, and the time and place when and where the same was committed]. Wherefore I [or, we], the said _____, do adjudge that he, the said A. O., do pay the sum of _____, as a penalty for his offence, in pursuance of the said act. Given under our hands and seals, this _____ day of _____, in the year of our Lord _____, and in the _____ year of the reign of his majesty King _____.

(No. 14.)

Conviction of an unlawful combination and confederacy, by the 87 Geo. 3, c. 19. (a)

_____ } Be it remembered, that on this _____ day of _____, in the _____ to wit. } year of the reign of _____, A. B., of _____, is duly convicted before me _____ [or, us], _____ of his majesty's justices of the peace for _____, in pursuance of an act of the fifty-seventh year of the reign of King George the Third [set forth the title of the act], for that the said A. B., after the passing of the said act, to wit, on the _____ day of _____, at _____, did, contrary to the said act, become a member of [or, as the case may be, act as a member of, or maintain a correspondence or intercourse with, or, by contribution of money or otherwise, abet or support] a society [describing the society], which society is an unlawful combination and confederacy within the intent and meaning of the said act. Wherefore I [or, we], the said _____, do adjudge, that he, the said A. B., do pay _____ [or, be imprisoned], as a penalty for his offence in pursuance of the said act. Given under my hand and seal [or, our hands and seals], this _____ day of _____, in the year of our Lord _____, and in the _____ year of the reign of his majesty King _____.

(No. 15.)

Adjudication of forfeiture of license to sell ale, &c., by the 87 Geo. 3, c. 19. (a)

_____ } Be it remembered, that on this _____ day of _____, in the _____ to wit. } year of the reign of his present majesty, A. B., of _____, being a person licensed to sell [as the case may be], is duly convicted before us, two of his majesty's justices of the peace for the county of _____, in pursuance of an act of the fifty-seventh year of the reign of King George the Third [set forth the title of the act], for that he, the said A. B., on _____, at _____, did permit a meeting of a society [describe the society], which is an unlawful combination and confederacy within the intent and meaning of the said act, to be held at _____, being the house [as the case may be] of the said A. B., wherein he, the said A. B., is licensed to sell [as the case may be]. Wherefore we, the said _____, do adjudge and declare, that the license [or, licenses, as the case may be] is [or, are] for such offence forfeited. Given under our hands and seals, this _____ day of _____, in the year of our Lord _____, and in the _____ year of the reign of his majesty King _____.

(a) The act gives this form.

(b) See note in preceding page.

(No. 16.)

Be it remembered, that on this day of , in the year of Conviction for
the reign of A. B., of , is duly convicted before me [or, us], offences subject
of his majesty's justices of the peace for , in pursuance of an act of the [or, us],
fifty-seventh year of the reign of King George the Third [set forth the title of the 57 Geo. 3, c. 19. (u)
act], for that the said A. B., after the passing of the said act, on , at
did, contrary to the said act [here specify any offence against the act, as
the case may be]. Wherefore I [or, we], the said , do adjudge that the
said A. B. do pay the sum of , as a penalty for this offence, in pursuance of
the said act.

Rivers and Navigation.

See Malicious Injury to Property, Vol. III; Seamen, post; Ships, post.

[19 Geo. II. c. 22; 54 Geo. III. c. 159; 7 & 8 Geo. IV. c. 29, s. 17; 7 & 8
Geo. IV. c. 30, s. 12, 13, 14.]

A RIVER which is common to all the king's subjects is a highway. *Roll* How far a river
Ab. 390; 1 *Ld. Raym.* 725; *Highways*, Vol. III. p. 4. So is a navigable river. See a highway.
Miles v. Rose, 5 *Tenn.* 705; *R. v. Montague*, 4 B. & C. 598; and see *Well-*
beloved, 19, 444. The right to a passage therein cannot be extinguished, ex- How extinguisht
cept by writ of *ad quod damnum*, by act of Parliament, or by natural causes. ed.
R. v. Montague, 4 B. & C. 603; 6 D. & R. 616, S.C.; *Vooght v. Winch*, 2 B. & A.
662. In *Com. Dig. Chemin*, (A. 1,) it is said, a navigable river is in the nature
of a highway; and, if the water alters its course, the way alters.

A charge for the amendment of a river may sometimes be incurred. *Mayor* Amending.
of *Lynn v. Turner*, *Corp.* 86.

The soil of all fresh rivers that are *publici juris*, *prima facie* belongs *usque* Soil of.
filum aque, to the adjoining proprietors. *De Juris Maris*, p. 9. And the soil
of arms of the sea, *prima facie*, belongs to the king. *Id.* p. 1.

Where an act of Parliament, passed for the purpose of making navigable a
natural river, does not vest in the undertakers of the navigation the bed of the
river, but gives them, for that purpose, a mere privilege of scouring and
cleansing it, they are not occupiers of the land used for the purpose of naviga-
tion, but have a mere easement in it. *R. v. Irwell and Mersey Navigation*,
9 B. & C. 95; *R. v. Thomas*, 9 B. & C. 114; and see *R. v. Air and Calder*
Navigation, *id.* 827.

We have already noticed as to what are nuisances at common law to high- Nuisances to, in
ways in general, and the manner of redressing them, *Highways*, Vol. III. p. 65 general.
to 67; and the observations there made will, for the most part, be here applicable.

Although a subject may by prescription have a wear in the sea, yet, if it be a
nuisance to the passage of ships, the same may be abated. *De Jure Maris*,
p. 21; *Wellbeloved*, 446, 447: but see, as to the erection of staiths, *R. v.*
Russell, 6 B. & C. 566; *Highways*, Vol. III., p. 66, 67.

It is a nuisance to lay timber in a public river, although the soil on which it
is laid belongs to the party, provided it obstructs the necessary intercourse.
3 *Bac. Ab.* 686; 3 *Keb.* 759; and see *R. v. Ld. Grosvenor*, 2 *Stark. C. N. P.*
511.

So, it is a common nuisance to divert part of a public navigable river, whereby
the current of it is weakened, and made unable to carry vessels of the same
burthen as it would before. 1 *Haw. c.* 75, s. 11, 5.

As to suffering a sunken barge to remain in a river, see, *ante*, Vol. III. p. 67;
post, 308.

By the 19 Geo. II. c. 22, s. 1, it is enacted, "That if at any time, from and
after the 1st day of June, 1746, any master or owner, or any person acting as
master of any ship, pink, crayer, lighter, keil-boat, or other vessel whatsoever,
shall cast, throw out, or unlade; or if at any time, from and after the day afore- Filling up havens,
&c. with ballast,
&c.

(a) The act gives this form.

16 Geo. 2, c. 22.

Justices may
issue warrant.

Penalty.

Distress.

Imprisonment.

Distress sold.

Ship sunk or
stranded, &c.,
in a harbour, and
permitted to re-
main there.

said, there shall be cast, thrown out, or unladen from and out of any ship, pink, crayer, lighter, keil-boat, or other vessel whatsoever, being or riding within any haven, port, road, channel, or navigable river, within that part of Great Britain called England, any ballast, rubbish, gravel, earth, stone, wreck, or filth, but only upon the land where the tide or water never flows or runs; it shall and may be lawful for any one or more justice or justices of the peace for the county, city, town corporate, liberty, or place, where or near which such offence shall be committed, upon information thereof, and he and they are hereby authorized and required to summon or issue out his or their warrant or warrants, to apprehend and bring before him or them, the master or masters, owner or owners, of any such ship, pink, crayer, lighter, keil-boat, or other vessel, or other person or persons acting as such, against whom such complaint or information shall be made or given; and upon his, her, or their appearance or default, to proceed to examine the matter of fact, and upon due proof made (either by the confession of the party offending, or on view of such justice or justices, or upon the oath or oaths of one or more credible witness or witnesses, which oaths the said justices are hereby empowered and required to administer), that any ballast, rubbish, earth, gravel, stone, wreck, or filth, had been cast, unladen, or thrown out of, or from any ship, pink, crayer, lighter, keil-boat, or other vessel, the master or masters, or person or persons acting as master or masters thereof, shall be adjudged, and he and they are hereby respectively declared to be the offenders against this act; and he and they being by such justice or justices (or any of the ways or means aforesaid) thereof convicted, shall forfeit and pay for every such offence any sum not exceeding the sum of 5*l.*, nor under 50*s.*, at the discretion of such justice or justices, the one moiety thereof to the informer, and the other moiety thereof to the overseers of the poor of the parish, town, or place wherein such conviction shall be pronounced, for the use of the poor there.

Sect. 2. "That the penalties inflicted or incurred by this act, shall be recovered and levied by distress and sale either of the goods or chattels of the persons so convicted respectively as aforesaid, or of the ship, pink, crayer, lighter, keil-boat, or other vessel, or of their tackle, apparel, or furniture (by warrant or warrants under the hand and seal, or hands and seals of such justice or justices, and which he and they are hereby empowered and required, on such conviction as aforesaid, to make, and to direct the same to the constables, or to the tithingman, or other proper officer of the parish, town, or place where such warrants are respectively to be executed; and which warrants the constables and tithingmen, and officers aforesaid, are hereby respectively required to execute) together with the charges of such distress and sale, rendering the overplus (if any be, after demand in writing) to the respective owners thereof; and for want of sufficient distress, the said justice or justices are hereby empowered and required to commit such master or masters, or person or persons acting as such, and so convicted as aforesaid, to the common gaol of the county, city, town corporate, or to the house of correction of the county where the offenders shall be respectively convicted as aforesaid, there to remain for the space of two months, or until payment shall be made of the penalties and forfeitures, or so much thereof, as for the non-payment of which such commitment shall be."

Sect. 6. "That none of the distresses to be at any time made by virtue of this act, or any part of such distresses, shall be sold till after the expiration of five days from the making such distresses respectively; but that it shall and may be lawful to and for the persons convicted in the meanwhile (to wit, at any time before the expiration of the said five days) to redeem such distress, by payment of the money for which the same shall have been made by virtue hereof, to and for the uses and purposes of this act, together with the costs and charges of and for making, seizing, and detaining such distress."

Sect. 3. "That as soon as any ship or vessel shall, after the said 1st day of June, be sunk, stranded, or run on shore in any harbour, port, channel, or navigable river, or shall be brought or drove in, or be there in a ruinous or shattered condition as aforesaid, and permitted to remain there, and the owner, or some other person having, or pretending to have, any property therein, or the command or power thereof, or any other person or persons by their or any

of their order, privity, or assent, shall begin to take down or carry away any of the rigging or tackle, or if there shall not be any person to take care of the said ship or vessel, it shall be lawful for any one or more justice or justices of the peace for the county or place where or near † such fact, accident, or offence shall happen, upon information thereof, and he and they are hereby authorized and required, to summon, or issue out his or their warrant or warrants to apprehend and bring before him or them the owner, or other person having, or pretending to have, the command or power over such ship or vessel; and upon his or their appearance or default, to proceed to examine the matter of fact, in manner and form aforesaid; and in case, upon such examination, such justice or justices shall find any owner, or other person having, or pretending to have, the command or power over such ship or vessel, or any of the persons aforesaid, guilty of such offence as aforesaid, such justice or justices shall, and he and they is and are hereby required to issue his and their warrant or warrants for seizing and removing such ship or vessel, and also the rigging or tackle thereof, in such manner as such justice or justices shall order and direct; and if the owner or such other person aforesaid, shall not within five days give security, according to the approbation of such justice or justices, to clear the harbour, port, channel, or river, of such vessel, and of all wreck, and parts belonging to the same, and pay the charges and expenses of seizing, removing, and disposing of such ship or vessel, tackle, or furniture, then to cause the hull, rigging, or tackle to be sold, and with or out of the money arising by such sale, to pay the charges and expenses of clearing the harbour or place where such ship or vessel shall lie; and also the charges and expenses of seizing, removing, and selling such ship, vessel, furniture, and tackle, rendering the overplus, if any be, to the owner or owners of such manor where the same shall happen."

19 Geo. 2, c. 22.

† Sec.

Warrant.

Conviction.

Warrant.

Sale of ship, &c.

Sect. 4. "That all and every the justices aforesaid may, and they are hereby respectively authorized and required to put this act in execution against any person or persons within their several jurisdictions, although such justice or justices shall or may be rated or assessed, or do, or shall, or may actually pay for or towards the maintenance or relief of the poor of any parish, town, or place, in which any conviction in pursuance of this act shall be pronounced; any law or statute to the contrary thereof notwithstanding."

Justices to execute act indiscriminately.

Sect. 5. "That all convictions, to be pronounced by the authority of this act, shall be final to all intents and purposes, not to be appealed from, or removed into any court of record at Westminster."

Conviction final.

Sect. 7. "That nothing in this act contained shall extend, or be construed to extend to take away, abridge, diminish, or alter any right, benefit, or lawful use, that the lord or lords, lady or ladies, of any manor or manors adjoining to, or bordering upon, any haven, port, road, channel, or river, or that any other person or persons whatsoever hath or have to such haven, port, channel, or river, or to the banks, shores, or sides thereof, or any fishery, manufactures, or royalties therein; nor extend to the casting out, unloading, or throwing out of any ship, pink, crayer, lighter, keil-boat, or other vessel, any stone, rocks, bricks, lime, or other materials, used or to be used, in or towards the building, amending, repairing, and keeping in repair, any quay, pier, wharf, wear, or bridge, or the banks or sides of any haven, port, road, channel, or navigable river within this realm; but, on the contrary, this act shall be construed and taken to prevent the mischiefs to be done in, or to, or upon the said havens, ports, roads, channels, or rivers, which may any ways tend to obstruct, prejudice, incommode, hinder, or do any annoyance in the said havens, ports, roads, channels, or rivers, or prejudice the navigation therein, and not otherwise."

Limitation of powers of act.

Sect. 8. Saves the former jurisdictions, rights, or remedies to punish any nuisances to be done in any haven, port, road, channel, or navigable river.

Proviso.

Unloading ballast from a ship into a machine or vessel, called a hopper, in a navigable river, with intent to carry and cast it into the high and open sea, and carrying it accordingly and casting it out of the said hopper, when the water was more than fourteen fathom deep, at a distance from any port, haven, channel, or navigable river, is an offence against the positive enact-

Obstructing, &c. ment of 19 Geo. II. c. 22, and subjects the offender to the penalty of s. 1. *Brucklesbank v. Smith*, 2 Burr. 656.

54 Geo. 3, c. 159. By the 54 Geo. III. c. 159, s. 1, the 9 Geo. III. c. 30, and 10 Anne, c. 17, as far as they relate to the harbour moorings of the navy, and the 51 Geo. III. c. 73, are repealed.

Sect. 2. The Admiralty may establish regulations for the preservation of the king's moorings, and for mooring merchant-ships. Such regulations to be published in the Gazette, and to be hung up conspicuously in custom-houses, &c.

Sect. 3. No private ships to fasten to his majesty's moorings, under penalty of not exceeding 10*l*. for each tide.

Sect. 4. Power given to harbour-master and other officers to unmoor and remove private ships of war or merchant-ships, &c. Penalty of 10*l*. on owner, master, &c., of private ships, neglecting or refusing to remove after one hour's notice.

Sect. 5. Notice to be given when his majesty's moorings are hooked.

Sect. 6. Places to be appointed for breaming ships, and for leaving and receiving gunpowder.

Sect. 7, 8. Penalties on breaming ships, except at appointed places, and on keeping guns shotted.

Sect. 9. Power given to harbour-master and other officers, to enter private ships to search for gunpowder, &c., within limits prohibited. Penalty of 10*l*. for refusing admittance to proper officers.

Sect. 10. None to sweep for his majesty's stores within one hundred yards of his majesty's ships or moorings, but licensed persons, under penalty of 10*l*.

Casting ballast,
&c., into har-
bours, &c. (a)

Sect. 11. "That if the owner, master, or other person, having the charge or command of any private ship of war, transport, or other private or merchant-ship or vessel, lighter, barge, boat, or other craft whatsoever, or any person working any quarry, mine, or pit, near to the sea, or to any such harbour, haven, or navigable river as aforesaid, or any other person or persons whatsoever, shall cast, throw, empty, or unlade, or cause or procure to be cast, thrown, emptied, or unladen, either from or out of any such ship or vessel, lighter, barge, boat, or other craft, or from the shore, any ballast, stone, slate, gravel, earth, rubbish, wreck, or filth, into any of such ports, roads, roadsteads, harbours, havens, or navigable rivers of this kingdom as aforesaid, so as to tend to the injury or obstruction of the navigation thereof, or in any place or situation on shore where the same shall be liable to be washed into the sea, or into any such ports, roads, roadsteads, harbours, havens, or navigable rivers, either by ordinary or high tides, or by storms or land-floods; all and every such person and persons so offending shall, for every such offence, forfeit and pay a sum not exceeding the sum of 10*l*. over and besides all expenses which may be incurred in removing to a proper place the said matters which may have been deposited contrary to the provisions of this act, such expenses to be recoverable in such manner and with such power of commitment, on non-payment thereof, as in cases of penalties or forfeitures under this act: provided that nothing herein contained shall extend or be construed to extend to the casting out, unlading, or throwing out of any ship or vessel, lighter, barge, boat, or other craft, any stones, rocks,† bricks, lime, or other materials used or to be used in or towards the building, repairing, or keeping in repair, any quay, pier, wharf, wear, bridge, or other building, or the banks or sides of any port, harbour, haven, channel, or navigable river, or any materials for repairing any highway; any thing herein contained to the contrary thereof in any wise notwithstanding."

Penalty.

Proviso.

† Sic.

In what manner
ships, &c., may
unlade ballast.

Sect. 12. And, for the more effectually preventing such injuries, it is enacted, "that no ship or vessel, lighter, barge, boat, or craft whatsoever, shall unlade on any part of the shore (except on some wharf properly constructed for the purpose) any ballast, stone, slate, gravel, earth, rubbish, wreck, or filth, except at the time of high water, or within two hours before or two hours after high

water; and that, for every such purpose, every such ship or vessel, lighter, barge, boat, or craft, shall approach the shore, as far as the tide and the draught of water of such ship, vessel, lighter, barge, boat, or craft will admit, and shall, under no circumstances and in no situation, deposit any of the said matters below low-water mark at neap tides; and that every vessel drawing above eleven feet of water at the stern shall unlade all such materials into some lighter, barge, or boat, as hereinbefore directed, in order that the same may be conveyed as near the shore as possible at the time of high water, as hereinbefore directed."

4 Geo. 2, c. 130.

Sect. 13. "That all such ballast and other matter shall, in all the above-mentioned cases, be cast on shore from the side of the ship, lighter, barge, boat, or other craft, which shall be nearest to the land, and not otherwise; and every person who shall offend in any of the above particulars shall, for every such offence, forfeit and pay a sum not exceeding the sum of 10*l.*, over and above all expenses which may be incurred in removing to a proper place the said matters which may have been deposited, contrary to the provisions of this act; such expenses to be recoverable in such manner, and with such powers of commitment on non-payment thereof, as in cases of penalties or forfeitures under this act."

Ballast cast on shore from side of ship nearest to land.

Penalty.

Sect. 14. "And, in order to prevent damage being done to the shores or banks of the ports, harbours, or havens, in this kingdom, it is enacted, "that no person or persons shall take any ballast or shingle from the shores or banks, or any portion of the shores or banks, of any port, harbour, or haven, of this kingdom, from which the commissioners for executing the office of Lord High Admiral of the United Kingdom for the time being shall find it necessary for the protection of such port, harbour, or haven, or the works thereof, by order under their hands, or the hands of any three of them, or the hands of his or their secretary, and published in the London Gazette, to prohibit the taking or removing of such shingle or ballast, upon pain of forfeiting for every such offence the sum of 10*l.*"

Taking ballast from shore in harbours.

Penalty.

Sect. 15. "That, in the taking of ballast into any ship or vessel, lighter, barge, boat, or other craft, and also in the discharging of the same from any ship or vessel into any lighter, boat, barge, or other craft, every such ship or vessel, lighter, barge, boat, or other craft, shall be provided with, and shall make use of, one or more tarpaulin or tarpaulins, properly stretched and spread, in order to prevent such ballast or any part thereof from falling into the sea, or into any harbour, haven, or navigable river; and, in case any person or persons shall either take any ballast into any ship or vessel, lighter, barge, boat, or other craft, or shall discharge the same from any ship or vessel into any lighter, barge, boat, or other craft, without using such sufficient tarpaulin or tarpaulins, properly stretched and spread, in order to prevent such ballast or any part thereof from falling into the sea, or into any such harbour, haven, or navigable river; all and every person or persons offending therein shall, for every such offence, forfeit and pay the sum of 5*l.*"

Tarpaulins used taking and discharging ballast.

Penalty.

Sect. 16. Admiralty may dispense with the provisions relative to ballast.

Sect. 17. Vessels sunk or stranded, after twenty-eight days' refusal or neglect of owner to raise the same, may be weighed and raised under direction of harbour-master, or commissioner of the navy, and the charge of raising be paid from sale of vessel or goods on board.

Sect. 18. Harbour-master, &c., indemnified for acts in pursuance of this act.

Sect. 19. On neglect of harbour-master, &c., for two months, the owner or master of the vessel may weigh and raise it.

Sect. 20. Commissioners of the navy, residing at any port, &c., near to the place where any offence is committed against this act, are empowered to act as justices of the peace for all the purposes of the act.

Sect. 21. "That all the penalties and forfeitures imposed by this act shall be sued for within twelve calendar months next after the offence or offences shall be committed, before any commissioner of the navy or justice of the peace residing at or near to the place where any such offence or offences shall be committed; all which said penalties and forfeitures shall go and be applied as follows; that is to say, one moiety thereof to the use of his majesty, his heirs,

Penalties, &c., how recovered, &c.

54 Geo. 3, c. 159.

and successors, and the other moiety thereof, with full costs, to be adjudged by such commissioner of the navy or justice of the peace, to the informer; and every such commissioner of the navy and justice of the peace, is hereby authorized and required, upon information exhibited, or complaint made, to grant and issue his warrant in writing under his hand, to bring before them respectively such offender or offenders at the time and place in such warrant specified; and if on the conviction of the offender or offenders respectively, on his, her, or their confession, or on oath (which oath every such commissioner of the navy and justice of the peace is hereby authorized and empowered to administer), such penalty or forfeiture, together with such costs as aforesaid, shall not be forthwith paid, it shall be lawful for such commissioner of the navy or justice of the peace to commit any such offender or offenders to the common gaol or house of correction for the county, city, or borough, at or near to the place where the offence or offences shall be committed, there to remain without bail or mainprize, for any time not exceeding three months, unless such penalty or forfeiture and costs shall be sooner paid."

Imprisonment.

Extent of jurisdiction of commissioners of navy and justices of peace.

Sect. 22. "That it shall be lawful for any commissioner of the navy, residing at or near to any port, harbour, or haven, or any part thereof, or for any justice of the peace for any county, city, or borough, acting in and for any district or place next adjoining to any such port, harbour, haven, road, roadstead, sound, channel, creek, bay, or navigable river, or any member of any of them, where any such offence or offences may be committed, to proceed in the execution of this act, and of all the powers and authorities thereof, herein and hereby given to commissioners of the navy and justices of the peace, in such and the same manner, and as fully and effectually, to all intents and purposes, as if such offence or offences had been committed locally within the limits of the jurisdiction of such commissioner of the navy or justice of the peace, although the same may have been committed out of the limits of the jurisdiction of such commissioner or justice, or out of the body of any county of this realm."

Conviction, how drawn up.

Sect. 23. "And, for the more easy and speedy conviction of offenders against this act, and also for the prevention of frivolous and vexatious appeals, be it further enacted, that every commissioner of the navy and justice of the peace before whom any person or persons shall be convicted of any offence or offences against this act, shall and may cause the conviction to be drawn up according to the following form, or in any form of words to the like effect, *mutatis mutandis*; which conviction shall be good and effectual to all intents and purposes, without stating the case, or the facts, or evidence, in any more particular manner; that is to say,

Form.

"Be it remembered, that on the day of , in the year of our lord , A. B. is convicted before me, , one of the commissioners of the navy, or one of his majesty's justices of the peace for the of , [as the case may be] for that the said A. B., on the day of , at , did, [here state the offence against this act,] contrary to the statute in such case made and provided. Given under my hand and seal the day and year first above written."

Written on parchment, &c.

Which conviction the said commissioner or justice shall cause to be fairly written upon parchment or paper, and returned to the next general quarter sessions of the peace for the county, division, city, town corporate, liberty, or place, where such conviction was made, to be filed by the clerk of the peace, and there to remain and be kept among the records of the same county, division, or place; and the same shall not be removed by *certiorari*, advocacy, or suspension, or any other process whatsoever, into any court whatsoever."

Filed.

Certiorari, &c.

Witnesses not attending.

Sect. 24. "That if any person or persons shall be summoned as a witness or witnesses to give evidence before any such commissioner or justice or justices of the peace, touching any of the matters relative to this act, either on the part of the informer or prosecutor, or of the party or parties accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his, her, or their neglect or refusal, to be allowed by such commissioner or justice or justices of the peace before whom the complaint or prosecution shall be depending, that then every such person shall forfeit for every such offence the sum of 10*l.*, to be recovered,

Penalty.

levied, and paid, and applied in such manner, and by such means, as is above directed with respect to fines on summary convictions." 84 Geo. 3, c. 150.

Sect. 25. Persons wilfully and corruptly giving false evidence, or wilfully and corruptly swearing or affirming any thing false before commissioner or justice, in any matter relating to the execution of this act, declared liable to the penalties of wilful and corrupt perjury. Perjury, &c.

Sect. 26. "That it shall and may be lawful to and for any person or persons so convicted by any commissioner of the navy or justice of the peace before mentioned, of any offence or offences against this act, within three calendar months next after such conviction, to appeal to the justices of the peace assembled at the general quarter sessions holden for the county, city, or place, where the matter of appeal shall arise, first giving ten days' notice of such appeal to the person or persons appealed against, and of the matter thereof, and entering into a recognizance before some commissioner of the navy, or justice of the peace for such county, city, or place, with two sufficient sureties conditioned to try such appeal, and for abiding the determination of the court therein; and such justices at the general quarter sessions shall, upon due proof of such notice having been given, and a recognizance having been entered into, hear and determine the matter of such appeal, and may either confirm or quash and annul the said conviction, and award such costs to the party as to them shall seem just and reasonable; and the decision of the said justices therein shall be final, binding, and conclusive." Appeal.
Notice.
Recognisance.
Costs.
Final.

Sect. 27. Action or suit to be commenced within six months after offence.

Sect. 28. Act not to affect rights of property, privileges, jurisdictions, and powers of conservancy.

As to the offence of maliciously destroying, &c., the banks and locks, &c., on navigable rivers, see the 7 & 8 Geo. IV. c. 30, s. 12, 13, 14; *Malicious Injuries to Property*, Vol. III. Injuries to banks, locks, &c., in rivers.

As to the offence of stealing from ships, &c., on rivers, &c., see the 7 & 8 Geo. IV. c. 29, s. 17; *Larceny*, Vol. III. Stealing from ships, &c., in rivers, &c.

— to wit: Be it remembered, that on, &c., at, &c., A. B., of, &c., who as well for our lord the king as for himself doth prosecute in this behalf, personally cometh before me, J. P., one of his majesty's justices of the peace for the said county, residing near the place where the offence hereinafter mentioned was committed, and as well for our said lord the king as for himself, informeth me, that C. D., of, &c., within the space of twelve calendar months now last past, to wit, on the, &c., at, &c., in the said county, being then and there master, and a person having the charge, of a certain private (b) vessel, called _____, did cast, throw, empty, and unlade, and cause and procure to be cast, thrown, emptied, and unladen from and out of the said vessel, a large quantity, to wit, (c) tons, of ballast, gravel, earth, and rubbish, into a certain navigable river (b) of this kingdom there, called the [Thames], so as to tend to the injury and obstruction of the navigation of the said river; contrary to the form of the statute in such case made and provided: whereby, &c., [as usual, to the end. See *Conviction*, Vol. I.] Information on 84 Geo. 3, c. 150, s. 11, for throwing ballast, &c., into rivers, &c.
(a)

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- (a) See the act, and the 19 Geo. II. c. 22, *ante*, 310. A conviction may be readily formed from this precedent, and the form given by the act, *ante*, 312.
- (b) See the words of the act, *ante*, 310.
- (c) The precise quantity is not material, but state enough.

Robbery.

I. *The Offence of*, p. 314.

7 & 8 Geo. IV. c. 29, s. 7, 9.]

II. *Indictment for*, p. 321.

III. *Punishment for*, p. 322.

[7 & 8 Geo. IV. c. 29, s. 6; 22 Geo. III. c. 33.]

IV. *Principal and Accessary*, p. 322.

V. *Rewards*, p. 323.

VI. *Levying Hue and Cry in*, p. 323.

VII. *What to be done with Goods of Person robbed*, p. 323.

VIII. *Assaults to rob*, p. 323. See *Assault*, Vol. I.

IX. *Demanding Money, &c. with Intent to rob*, p. 323. See *Threats*, *post*.

X. *Liability of Hundred*, p. 323.

XI. *Forms*, p. 323.

I. The Offence of.

Two kinds of robbery.

THERE are two kinds of robbery; from the *person* and from the *house*: it is the former of these that is treated of under this title; the latter, viz. robbery from the house, belongeth to the titles *Larceny* and *Burglary*.

Robbery is a *felonious taking of money or goods, to any value, from the person of another, or in his presence, against his will, by violence, or putting him in fear*. 2 *East's P. C.* 707; 4 *Bla. Com.* 243; 3 *Inst.* 68.

Felonious.

Felonious—For to make it robbery there must be a felonious intention; and so it ought to be laid in the indictment. 1 *Hale*, 532; and see fully, as to the felonious intent, *Larceny*, Vol. III.

A. had set wires, in which game was caught; B., a gamekeeper, found them, and took the game and wires for the use of the lord of the manor. A. demanded them, with menaces, and B. gave them up. The jury found that A. acted under a *bonâ fide* impression that the game and wires were his property. Held, no robbery. *R. v. Hall*, 3 C. & P. 409.

Taking.

Taking—The taking must be against the will of the owner, and, to constitute the crime of robbery, the property must be taken from the person either by violence or by putting him in fear; either of these circumstances is sufficient. But no sudden taking of a thing unawares from the person, as by snatching any thing from the head or hand, is sufficient, unless some injury be done to the person, or unless there be some previous struggle for the possession of the thing taken.

If a robber cut a man's girdle in order to get his purse, and the purse thereby fall to the ground, and the robber run off, or be apprehended before he can take it up, this would not be robbery, because the purse was never in the possession of the robber. 1 *Hale*, 583; 1 *Leach*, 228. See, further, as to what is a taking, *Larceny*, Vol. III.

The money or goods.

Money or Goods—At common law, the goods taken must be such as would constitute the crime of larceny; see *Larceny*, Vol. III.; but the 7 & 8 Geo. IV. c. 29, s. 6, *post*, 321, extends the taking to any "*chattel, money, or valuable security*."

The value of the goods is immaterial: 1 *Hale*, 532. But they must be of some value to the party robbed; and, therefore, where the defendant compelled

the prosecutor, by threats, to give her his promissory note for a sum of money, it was holden by the judges not to be robbery, because the note was of no value to the prosecutor. *R. v. Phipoe*, 2 *Leach*, 673; see *Marran*, Vol. III.

OFFENCE OF.

From the Person of Another, or in his Presence].—The goods must be proved to have been taken, either from the person of another or in his presence. *R. v. Grey*, 2 *East's P. C.* 708; and see 2 *Stra.* 1015. If a thief put a man in fear, and then in his presence drive away his cattle, it is robbery. 1 *Hale*, 533.

From the person of another.

So, if a man, being assaulted by a robber, throw his purse into a bush; or, flying from a robber, let fall his hat; and the robber, in his presence, take up the purse or hat and carry it away, this would be robbery. 1 *Hale*, 533.

Against his Will].—The goods must be taken against the will of the party robbed. Therefore, where the party robbed concerted and connived at the robbery, and got one of his confederates to procure two strangers to commit it, for the purpose of getting a reward upon the apprehension and conviction of the strangers, the judges held that it was not a robbery, because the property was not taken against the party's will. *R. v. M'Danielle et al.*, *Fost.* 121. (a)

Against his will.

By Violence].—In a case where a lady was stepping into her carriage, the prisoner snatched at her diamond ear-ring, and separated it from her ear by tearing the ear entirely through, but there was no proof of the ear-ring ever having been seen in his hand, and, upon the lady's arrival at home, it was found amongst the curls of her hair; the judges, on a case reserved, were all of opinion, that there was a sufficient taking from the person to constitute robbery. They thought that it was sufficient, as the ear-ring had been in the possession of the prisoner, separate from the lady's person, though but for a moment, and though he could not retain it, but probably lost it again the same instant. *Lapier's case*, *O. B.*, *May*, 1784, 1 *Leach*, 320.

By violence.

Snatching an article from a man will constitute robbery, if it be so attached

(a) *Against the will.*] In the case of *M'Daniel, Berry, Eagan, and Salmon*, who were indicted as accessories before the fact to a robbery committed by *Kelly* and *Ellis* on the person of the said *Salmon*, it appeared that all the prisoners, and one *Thomas Blee*, in order to procure themselves the rewards given by act of Parliament for apprehending robbers, met at the Bell Inn, in Holborn, and agreed that *Blee* should procure two persons to commit a robbery on the prisoner *Salmon*; and that for that purpose they contrived that *Blee* should inform the persons so to be procured that he would assist them in stealing some linen in Deptford; that in pursuance of this agreement, and with the privity of all the prisoners, *Blee* procured *Ellis* and *Kelly* to go with him to Deptford in order to steal linen, but did not at any time before the robbery inform them of the intended robbery; that they went with *Blee* to Deptford, and the prisoner *Salmon* being likewise waiting there, in pursuance of the agreement, they robbed him of the money and goods mentioned in the indictment. This case was argued before all the judges, who were unanimously of opinion that, supposing a robbery to have been committed, all the prisoners were guilty as accessories before, except *Salmon*, who could not be accessory to the robbing of himself. But, inasmuch as the goods were taken from *Salmon* in pursuance of

the agreement before mentioned, they were of opinion that, in legal construction, he was not robbed at all, since it is of the essence of robbery, that the goods be taken against the will of the owner; although the circumstance of putting in fear is perhaps not necessary to be inserted in the indictment; at least it need not to be strictly proved: for, if a man be knocked down without any previous warning, and thereby rendered insensible, or if he manfully resist and be overpowered without being under any fear at all, it is not the less robbery upon that account. And the prisoners were discharged of the indictment. But afterwards an indictment was found against them, and prosecuted at the expense of the crown, on the representation of the judges, for a conspiracy; in which the principal facts found by the special verdict in the robbery bill were charged. On this indictment they were all convicted; and the court gave judgment, that they be all set in and upon the pillory twice; that they stand committed for seven years, and until they find sureties for their good behaviour for three years afterwards. One of them (*Eagan*) lost his life in the pillory, through the resentment of the populace, and on that account the others did not stand a second time. But they were all in Newgate very closely confined, in pursuance of their sentence. *Fost.* 121; 19 *How. St. Tr.* 814.

OFFENCE OF.

to his person or clothes as to afford resistance. *R. v. Mason, R. & R. C. C. 419; 2 R. C. & M. 68.* The prosecutor's watch was fastened to a steel chain, which went round his neck; the seal and chain hung from his fob. The prisoner laid hold of the seal and chain, and pulled the watch from the fob, but the steel chain still secured it: upon which the prisoner, by two jerks, broke the steel chain and made off with the watch. Case saved for the opinion of the judges upon the question, whether this was a robbery?—The judges were unanimous that it was, as the prisoner did not get the watch at once, but had to overcome the resistance made by the steel chain, and used actual force.

To constitute the crime of *highway robbery*, the force used must be force with intent to overpower the party and prevent his resistance, and if the force used is not with that intent, but only to get possession of the property, it is not highway robbery. *R. v. Gnosil, 1 C. & P. 304.*

or by putting him
in fear.

Or by putting him in Fear—Robbery may also be constituted by putting in fear as well as by force; or perhaps, in strictness, it may be said that fear will supply the place of force; yet it is not necessary that actual fear should either be laid in the indictment or strictly and precisely proved, provided the property be taken with such circumstances of violence or terror, or threatening by word or gesture, as would, in common experience, induce a man to part with it from an apprehension of personal danger; for the law, in *odium spoliatoris*, will presume fear where there appears to be so reasonable a ground for it. But it is necessary that it be taken against the will of the party. *2 East's P. C. 711; 1 Hale, 533.*

A colourable gift, which in truth was extorted by fear, amounts to a taking and trespass in law. As, if a person with a drawn sword, or other circumstances of terror, indicating a felonious intent, beg alms of another, who gives it him through mistrust and apprehension of violence, the offence is the same, notwithstanding the pretence. So it is whether there were any weapon drawn or not; or whether it were an offensive weapon; or whether the person assaulted delivered his money upon the other's command, or afterwards gave it him upon his ceasing to use force, and asking it for alms; for the owner was put in fear by the assault, and there remained a reasonable ground for its continuance. *2 East's P. C. 711; 1 Haw. c. 34, s. 6; Foster, 128.*

The same rule holds, although the thing taken were not really within the original contemplation of the robber, nor the object of his pursuit at the time.

Blackham assaulted a woman with intent to commit a rape, and she without any demand from him offered him money, which the prisoner took and put into his pocket, but continued to treat her with violence, to effect his original purpose, till he was interrupted by the approach of another person. This was holden to be robbery by a considerable majority of the judges: for the woman, from violence and terror, occasioned by the prisoner's behaviour, and to redeem her chastity, offered the money, which it was clear she would not have given voluntarily; and the prisoner, by taking it, derived that advantage to himself from his felonious conduct; though his original intent was to commit a rape. *R. v. Blackham, T. T. 1787; 2 East's P. C. 711.*

During the riots in London, in the year 1780, a boy with a cockade in his hat knocked violently at the door of the prosecutor, Mahon, who thereupon opened it; and the boy said to him, "God bless your honour, remember the poor mob." Mahon told him to go along, on which he said, "Then I will go and fetch my captain." He went; and the mob, to the amount of 100, armed with sticks and whatever they could get, soon after came, headed by the prisoner, *Thomas Taplin*, on horseback, having his horse led by the same boy. On their coming up, the by-standers said, "You must give them money;" and the boy said, "Now I have brought my captain." Mahon then asked the prisoner, "How much?" who answered, "Half-a-crown, sir." On which Mahon, who had before only intended to give a shilling, gave the prisoner the half-crown. This was holden to be a robbery. *Taplin's case, O. B. June, 1780, cor. Nares, J., East's P. C. 712.*

Another case of the like sort occurred, upon the trial of some of the rioters in the year 1780. The indictment was for robbing the prosecutor, *Daking*, in his dwelling-house; into which *Daking* swore that the prisoner, *William Brown*, and another man entered; and being asked by him what they wanted, *Brown*

having a drawn sword in his hand, said with an oath, "Put one shilling into my hat, or I have a party that can destroy your house presently:" on which the prosecutor gave him a shilling. Another witness present swore, that the prisoner also used the expression, that "if he (*Daking*) would keep the blood within his mouth, he must give the shilling." The offence was holden to be robbery. *Brown's case*, O. B. June, 1780, *cor. Nares, J.*; 2 *East's P. C.* 731.

In *Simons's case*, it appeared that the prisoners took a bushel and a half of wheat, worth 8s., and obliged the owner to take 13¹/₄d. for it, threatening to kill her if she refused; this was holden to be a robbery by all the judges, on a conference. *R. v. Simons*, *Cornwall Lent Assizes*, 1783, 2 *East's P. C.* 712.

So, in *Spencer's case*, the prosecutor, *Anderton*, having in his possession corn belonging to other persons, the prisoner came to him, together with a mob marching in military order; and one of the mob said, that if he would not sell they would take it away; the prisoner said, that they would give 30s. a load, and if he would not take that, they would take the corn away, on which the prosecutor sold that for 30s. which was worth 38s.: this was holden to be robbery; and the prisoner was convicted and executed. *Spencer's case*, *York Summer Assizes*, 1783, *cor. Buller, J.*, 2 *East's P. C.* 712.

No case, however, has gone further than that of *James and Ezekiel Astley*, who were indicted for robbing *Jonathan Grundy*. It appeared that the prisoners and a person unknown went to a public-house near Birmingham, during the time of the late riots, which was three or four hundred yards from Mr. G.'s house, early in the morning, where one of them said that they were going up to Mr. G.'s house, "and if he did not turn out the whack, his house would be down by two o'clock in the morning;" on which the stranger observed that he himself would do it; that he was the head of the mob, and had three or four hundred men at command at any time; with other like discourse. They all departed towards Mr. G.'s house; but before they arrived there they saw his servant at a little distance from it, whom they accosted, *James Astley* telling him he was come as a friend to let Mr. G. know that this man (the stranger) was the head of the mob, and the first man who had entered all the places which were destroyed at Birmingham. They then, seeing Mr. G. come out of his house, pulled off their hats, and shouted "Church and King." Mr. G. did the same, advancing towards the prisoners in much alarm, when the stranger accosted him, saying, "I am come out of friendship to you, Mr. G., to let you know your house is marked to come down to-morrow morning at two o'clock. I am the head of the mob: they are two thousand strong in Birmingham. I must have something to make my men drink. I can bring two or three hundred in an hour's time, or keep them back." Mr. G. said, "As to something to drink, you shall have anything you have a mind for." The stranger said, "I must have money." Mr. G. pulled out half-a-crown from his pocket, and offered it to him; but the stranger refused it, and turned away with expressions of contempt. Mr. G. then asked what he wanted; the stranger replied, he must have twenty guineas; and on Mr. G. saying that he had not so much in his house, the other told him, that if he did not give him something handsome for his men to drink, his house should come down. Mr. G. said, that he might have nine or ten guineas, which the stranger asked to see: and as Mr. G. was taking his purse out of his pocket, *James Astley* told him he might depend upon it that the other man was at the head of the mob, and the like sort of discourse which had passed before concerning his power; particularly, that he was the first man who had entered every house that had been destroyed. Mr. G. was so struck with that expression, that he immediately took the money out of his purse (nine guineas and a half), which he gave to the stranger, who counted it, and demanded to have something to drink. They all then went into Mr. G.'s house, where they had liquor, and in going away assured him that he should be protected. Mr. G. said that he was greatly alarmed, but not for his person; that no injury was threatened to his person; that when he delivered his money his apprehension was, that if he had refused so to do, the prisoners would have gone to Birmingham, and have returned with other persons, and pulled down his house and plundered it before he could have removed his wife, who was in the house, in great agitation,

OFFENCE OF.

as the prisoners had threatened, and in the same manner as, different houses in Birmingham had been before pulled down. It appeared that the prisoners had a small share of the money afterwards. It was objected on their behalf, that there was no evidence of robbery, inasmuch as the prosecutor did not deliver his money from any immediate fear of danger to himself or his property, but from an apprehension of future injury to his house by pulling it down. And the counsel for the crown admitting it to be a new case, *Grose, J.* proposed to have a special verdict found; but, on account of the prisoners' situation, it was agreed that the truth of the evidence should be left to the jury, and if they should find the prisoners guilty, the judgment should be respited, and the facts submitted to the judges for their opinion, whether the evidence amounted to robbery. The jury found the prisoners guilty; saying that they were satisfied that *Mr. Grundy* did not deliver his money from any apprehension of danger to his life or person, but from an apprehension that, if he refused, his house would at some future time be pulled down, as the prisoners and the stranger threatened, in the same manner as other houses in Birmingham had been before. In Michaelmas term, 1792, a majority of the judges held this to be robbery. *R. v. J. Astley and E. Astley, Stafford Summer Assizes, 1792, cor. Grose, J., 2 East's P. C. 729.*

But, in *R. v. Wood and Knewland*, who, under pretence of an auction, got a woman into a house, and compelled her, by threats of carrying her before a magistrate and to prison, for not paying for a lot pretended to have been bid for by her, to pay them 1s. through fear of prison, and for the purpose of obtaining her liberty, but without fear of any other personal violence—this was holden to be duress, and not robbery. *Ashhurst, J.*, in delivering the opinion of the judges, observed, that there was no reason for such a degree of terror in this case as to induce the prosecutrix to part with her money: she might have known that, having done no wrong, if she had been taken to prison, the law would have taken her under its protection, and set her free; and that the law did not allow the fear of being sent to prison to be a sufficient ground of terror to constitute a robbery.

Degree of fear.

Circumstances from which the court and jury may presume such a degree of apprehension of danger as would induce the prosecutor to part with his property, are sufficient to constitute fear. *Fost. 128.* Therefore, if a man knock another down, and steal from him his property whilst he is insensible on the ground, this is robbery. *Fost. 128.* A stage-coach having frequently been robbed on a particular road, *J. N.* went in it for the purpose of apprehending the robber. The robber met the coach, presented a pistol, and demanded money of the passengers; *J. N.* accordingly delivered his money, but immediately afterwards jumped out of the coach, and, with the assistance of others, secured the robber: and this was holden to be robbery. *Fost. 129.* So, where the defendant tore a lady's ear through, in snatching an ear-ring from it, the judges held it to be robbery. *R. v. Lapiet, 1 Leach, 320; ante, 315.*

But merely snatching property from a person unawares, and running away with it, will not be robbery, *R. v. Steward, 2 East's P. C. 702; R. v. Horner, id., 703; R. v. Baker, 1 Leach, 290; R. v. Macauley, id., 287;* because fear cannot, in fact, be presumed in such a case.

Fear of loss of character by threats.

The cases of robbery in which the property has been obtained by means of a fear being excited of injury to the character of the party robbed, appear to be confined to insinuations against, or threats to destroy, the character of the party pillaged, by accusing him of sodomitical practices. *2 Rus. 1009.* The fears unavoidably excited by these means have, on several occasions, been determined by the judges to be sufficient to constitute the crime of robbery. The bare idea of being thought addicted to so odious and detestable a crime is, of itself, sufficient to deprive the injured person of all the comforts and advantages of society; a punishment more terrible, both in apprehension and reality, than even death itself. The law, therefore, considers the fear of losing character by such an imputation as equal to the fear of losing life itself, or of sustaining personal injury. *Per Ashhurst, J.*, in delivering the opinion of the judges in *R. v. James Knewland and Nathaniel Wood, O. B. Feb. Sess. 1796; 2 Leach, 730.*

In the case of *Thomas Jones alias Evans*, the prisoner was convicted at the *O. B. June Sess.*, 1776, of a robbery, in extorting money by threatening to charge the prosecutor with sodomy, the prosecutor swearing that he was so alarmed by the idea, that he had neither courage nor strength to call out for assistance, and that the violence with which he had been detained in the street by the prisoner, had put him in fear for the safety of his person. *R. v. Jones alias Evans*, 1 *Leach*, 139; 2 *East's P. C.* 714, S. C.

Robert Harrold was afterwards convicted for a similar robbery, with the approbation of the judges. 2 *East's P. C.* 715.

This matter was afterwards most deliberately considered in *Donolly's case*, who was tried at the *O. B. Feb. Sess.*, 1779, for a highway robbery. It appeared, that as the prosecutor (the Hon. C. Fielding), a young gentleman, was passing through Soho Square, between six and seven o'clock in the evening, he met the prisoner, whom he had never seen before. The prisoner desired that he would give him a present. The prosecutor asked, for what? The prisoner answered, "You had better comply, or I will take you before a magistrate, and accuse you of an attempt to commit an unnatural crime." The prosecutor then gave him half-a-guinea, which the prisoner said was not sufficient; but Mr. F. had no more in his pocket. Two days after, in the evening, the prosecutor again met the prisoner in Oxford Street, who made use of the same threats as before, telling the prosecutor that he knew what passed in Soho Square, and, unless he would give him more money, he would take him before a magistrate, and accuse him of the same attempt; adding, that it would go hard with him, unless he could prove an *alibi*. The prosecutor then went into an adjoining shop, whither the prisoner followed him, and stayed at the outside of the door. The prosecutor took a guinea out of his pocket, and gave it to the shopkeeper, desiring him to give it to the man at the door, which was done, and the prisoner then departed. The prosecutor then deposed, that he was exceedingly alarmed on both occasions, and under that alarm gave the money; that he was not aware what were the consequences of such a charge, but apprehended it might cost him his life. The jury were desired to consider, 1st, whether, upon the evidence, they were satisfied that the prosecutor delivered his money through fear, and under an apprehension that his life was in danger; or, 2dly, if they did not think that the prosecutor apprehended his life was in danger, whether the money were not obtained by means of the prisoner's threats, and against the will of the prosecutor; for, if it were, even in that case, though he were not in fear of his life, the crime would amount to robbery. The jury found the prisoner guilty; and said they were satisfied that the prosecutor delivered his money through fear, and under an apprehension that his life was in danger. There being some difference of opinion among the judges on this case, they directed it to be argued before them, which was done on the 29th April, 1779, at Lord C. J. *De Grey's* house, present all the judges; when, after very full consideration, they at length all agreed that the case amounted to robbery. *R. v. Donolly*, *O. B. Feb.* 1779, *cor. Buller, J.*, 2 *East's P. C.* 715; 1 *Leach*, 193.

In the *May Old Bailey Sessions* following, 1779, *Sess. Pap.*, No. 5, p. 3; 2 *East's P. C.* 726; *Willes, J.*, in giving judgment (after noticing the definition of robbery by Lord Hale and others to the same effect), observed, that the following ingredients were necessary to constitute that offence:—1. A felonious intent, or *animus furandi*. 2. Some degree of violence or putting in fear. 3. A taking from the person of another. He observed, that he should confine himself to show that the prisoner's offence came within the above description, as the judges did not mean to draw the line as to what should or should not constitute robbery, and therefore they declined giving an answer to the cases put by the prisoner's counsel, urging that every case must depend upon its own conviction; but that the facts, in this case, warranted them in saying, as to the first point, that there was a felonious intention in the prisoner to rob the prosecutor. Upon the second point, that the putting in fear was not necessary to be laid in the indictment; so that the facts were charged to be done violently and against the will of the party. Nor was the circumstance of actual fear necessary to be proved; but that the law, in *odium spoliatoris*, would presume it. In like man-

OFFENCE OF.

ner, it had been often holden that actual violence was not necessary, but that constructive violence was sufficient; for, where such a terror was impressed on the mind as did not leave the party a free agent, and, in order to get rid of that terror, he delivered his money, it was robbery. It was also clear that no actual danger was necessary; for a man might commit robbery without having any offensive weapon; and though a tinder-box or candlestick were used. For when a villain came and demanded a man's money, no one knew to what length he would proceed. That here the situation of the prosecutor was that of a young gentleman accosted at night in the street by a stranger, whom he had never before seen, and must have suspected to be a villain, who demanded a present. Even that seemed sufficient; but the stranger went on and told him that he had better comply, &c. That was a threat of a personal injury, for he had every thing to fear in being dragged through the streets as a culprit charged with an unnatural crime. That, therefore, was a reasonable fear; which might operate in *constantem*, as well as in *meticulosum virum*. It had, he said, been urged on behalf of the prisoner, that this was a fraudulent extorting, and not a taking by violence. But, in many cases, fraud would supply the want of violence; as in the case of burglary, where breaking was necessary to be laid in the indictment, and yet getting admission into a house under colour of law or pretence of taking a lodging or business had been often holden sufficient evidence of the breaking into the house. But the judges, he observed, did not entirely determine this case on that ground, but were of opinion, that there was proof of a constructive violence, which they thought was sufficient. As to the third point, that there was clearly a taking from the person; though a taking in the presence of the party would have been sufficient. After citing the above-mentioned cases of *Jones*, *Brown*, and *Harrold*, he observed, that in those cases there was this difference from the present, that there was some actual violence proved, as taking by the collar or arm; but that the judges all held that that did not make any material distinction, but that sufficient was proved in this case for the jury to find the prisoner guilty of robbery.

In the October sessions following, *John Staples* was convicted of a similar offence, and executed. *Staples' case*, O. B., 1779.

David Hickman was indicted for robbing *John Millard*, in St. James's Palace, of two guineas. He obtained the money from the prosecutor by charging him with a similar crime as in the foregoing cases; and by threatening, that if he did not make him satisfaction, he would bring a serjeant and a file of men to take him up before a magistrate. The prosecutor swore that he parted with his money for fear of losing his character, and that he had no other fear. The jury found the prisoner guilty; but as some on the bench thought that this case differed from that of *Donolly*, it was reserved for the opinion of the judges; who, in November, 1783, were all of opinion that it was robbery. *Ashurst*, J., afterwards, *Old Bailey*, Feb. 1784, 1 *Leach*, 279, delivered their opinion, that this did not materially differ from the case of *Donolly*; for that the true definition of robbery is the stealing or taking from the person or in his presence, property of any amount, with such a degree of force or terror, as to induce the party unwillingly to part with his property; and that, whether the terror arose from real or expected violence to the person, or from a sense of injury to the character, the law made no kind of difference: for, to most men, the idea of losing their fame and reputation was equally, if not more terrific, than the dread of personal injury. That the principal ingredient in robbery was a man's being forced to part with his property. And that the judges were unanimously of opinion, that, upon the principles of law and the authority of former decisions, a threat to accuse a man of having committed the greatest of all crimes was a sufficient force to constitute the crime of robbery by putting in fear. *Hickman's case*, *Old Bailey*, July, 1783, 2 *East's P. C.* 728.

Obtaining money by threatening to charge a man with an unnatural crime, and to carry him before a magistrate, is a robbery, if there is any constraint on his person; and if the prisoners call a coach to carry the party before a magistrate, and the prosecutor get into it, such is a constraint upon his person. *R. v. Thomas Cannon and Another*, R. & R. C. C. 146.

Fear of loss of character and service on a charge of sodomitical practices is

sufficient to constitute robbery, though the party had no fear of being taken into custody or of punishment. *R. v. Egerton, R. & R. C. C. R. 375.*

But parting with property upon the charge of an unnatural crime, will not make the taking a robbery, if it is parted with, not from fear of loss of character, but for the purpose of prosecuting. *R. v. Fuller, id. 408.*

It is equally a robbery to extort money from a person by threatening to accuse him of an unnatural crime, whether the party so threatened has been guilty of such crime or not. *R. v. Gardner, 1 C. & P. 79.*

If the property be not taken by actual violence, and the owner only delivers it in consequence of prior threats, such delivery must be enforced by terror actually felt at the time, to constitute the crime; otherwise there is neither actual nor constructive violence in the taking, and, consequently, no robbery. *2 East's P. C. 733.*

It is not enough that the fear arise after the property is taken. Harman, being on horseback, desired Halfpenny to open a gap for him; and while he was so doing, Harman took the opportunity, unperceived, to pick his pocket of his purse. Halfpenny, turning round, and seeing the purse in Harman's hand, demanded it of him, who then menaced Halfpenny (in the manner before-mentioned), and went away with the purse. On an indictment for robbery, the prisoner was holden guilty of simple larceny only; the property being obtained by stealth, and not by violence or putting in fear; the words of menace being used after the taking. *Harman's case, Hil. 17 Jac. 2; Roll. Rep. 154; 1 Hale, 534.*

In the case of *Jackson and Shipley, Nottingham Spr. Ass. 1802*, before Mr. Baron Graham, it was decided on a case reserved, that to constitute robbery by taking money from another upon a threat to charge him with an unnatural crime, the money must be taken immediately upon the threat made, and not after the parties have separated, and time for the prosecutor to deliberate and procure assistance, and especially after he had consulted a friend, who was even present at the time when the money was paid, though the prosecutor parted with his money from fear of losing his character. *R. v. Jackson and Shipley, 1 East's P. C., Add. XXI.; and see R. v. Reeve, 2 Leach, 616.*

But, now, the 7 & 8 Geo. IV. c. 29, s. 7, declares it to be robbery, if any person shall accuse, or threaten to accuse, any other person of any infamous crime, as thereafter defined, with a view or intent to extort or gain from him, and shall, by intimidating him by such accusation or threat, extort or gain from him any chattel, money, or valuable security.

And sect. 9, declares, that the abominable crime of *buggery*, committed either with mankind or with beast, and every *assault with intent* to commit the said abominable crime, and every *attempt or endeavour* to commit the said abominable crime, and every *solicitation, persuasion, promise, or threat* offered or made to any person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of that act. *Ante, Larceny, Vol. III.*

Under the 4 Geo. IV. c. 54, s. 3, which made it felony to threaten to accuse a person of an infamous crime with a view to extort money, a charge of *making overtures* to commit sodomy was held not to be an infamous crime within the act, and that such overtures would not subject the party making them to an infamous crime, or prevent his being a witness. *R. v. Hickman, R. & M. C. C. 34.* But this is remedied by the above clause, which defines the nature of an infamous crime.

II. Indictment for Robbery.

The venue must be laid in the county where the crime actually took place. *2 Leach, 634.* See, as to the venue in robbing the mail, *ante, Post-Office, p. 187*; see also, as to the venue in cases where the place of committing the offence is doubtful, *Indictment, p. 330, 331.*

The putting in fear need not be laid in the indictment, so that the fact be charged to be done violently and against the will of the party. *R. v. Donolly, ante, p. 319; Post. 128; 1 Hale, 534.*

Where no force, there must be terror in fact.

Fear after the taking not sufficient.

Except in threats to accuse of unnatural crimes.

Robbery—(Principal and Accessary.)

[IV.]

The term *violently* is not absolutely requisite, so that it otherwise appear violence was used. 2 *East's P. C.* 783.

The assault must be laid to have been *feloniously* made. 2 *Leach*, 564.

Where the indictment stated that the robbery was in a field *near the king's highway*, and it was not proved that it was *near any highway*, it was considered that the allegation of the robbery being in a field *near the highway* was immaterial, for the 3 & 4 W. & M. c. 2, took away clergy, let the robbery be where it might. *R. v. Wardle, R. & R. C. C.* 9. And so, where the indictment charged that the prisoner robbed A. B. in the dwelling-house of J. S., and the robbery was proved, and that it was in the house, but whose house it did not appear, this was held immaterial. *R. v. Pye, R. & R. C. C.* 9, 10, n.

As to the mode of describing the goods, and the ownership thereof, see *Indictment*, Vol. III. p. 348; *Larceny*, Vol. III.

The indictment need not conclude, against the form of the statute, unless, perhaps, the robbery be of some security or chattel not the subject of larceny at common law.

On the trial, should it appear that any of the circumstances of robbery are wanting, but the taking is proved, the defendant may be acquitted of the aggravated offence, and found guilty of simple larceny. *Rep. temp. Hardw.* 115. *Com. Rep.* 478; 2 *Str.* 1014.

If the property be once taken, the offence will not be purged by the robber delivering it back to the owner. 1 *Hale*, 533; 1 *Haw. c.* 34, s. 2; *R. v. Peat*, 1 *Leach*, 228.

III. Punishment for Robbery.

Robbery is generally inflicted with the heaviest punishment. See 3 *Last*. 68; 2 *Hale*, c. 48.

Robbery from
the person, death.

Assaults with
intent to commit
robbery, and re-
mands accom-
panied with
menaces or force.

By the 7 & 8 Geo. IV. c. 29, s. 6, it is enacted, "that if any person shall rob any other person of any chattel, money, or valuable security, every such offender, being convicted thereof, shall suffer death as a felon; and if any person shall steal any such property from the person of another, or shall assault any other person with intent to rob him, or shall with menaces or by force demand any such property of any other person with intent to steal the same, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment."

See the general clauses of this act, affecting all its provisions, title *Larceny*, Vol. III.

The 7 & 8 Geo. IV. c. 27, repeals the 23 Hen. VIII. c. 1, 3 W. & M. c. 9, and so much of the 1 Edw. VI. c. 12, as relates to housebreaking, robbing, horse-stealing, and sacrilege, and to the allowance of the benefit of clergy in any case therein mentioned: so far the repeals go to robbery.

By the 22 Geo. II. c. 33, robbery in the navy shall be punished with death, or otherwise, as a court-martial, on consideration of the circumstances, shall find meet.

IV. Principal and Accessary.

All that come in company to rob are principals, though one actually do it. *Hale's Sum.* 72.

If a gang of poachers attack a gamekeeper, and leave him senseless on the ground, and one of them return and steal his money, &c., that one only can be convicted of the robbery, as it was not in pursuance of any common intent. *R. v. Hawkins*, 3 C. & P. 392.

As to accessories in general, see *Accessory*, Vol. I.

V. Rewards.

As to rewards for apprehending robbers, see, *ante*, *Reward*, p. 275, 276.

VI. Laying Hue and Cry on a Robbery.

How hue and cry shall be made, see *Hue and Cry*, Vol. III.

Hue and cry.

VII. What shall be done with the Goods of the Person Robbed.

If the person robbed do not prosecute the robber; unless his goods be waived in flight, or seized by the king's officers, or lord of the manor, he shall not have them restored. *Kel.* 49. Restitution of goods taken by robbery.

But if they be not waived in flight, nor seized by the king's officers or the lord of the manor, he may take his goods again wherever he finds them, without the formality of restitution being awarded, if they be not sold in open market; and this, also, although he do not prosecute the robber. *Kel.* 49.

But if he shall prosecute the robber to conviction, he shall have restitution, although they have been waived, and seized, and even sold in open market. *Kel.* 48. See further, *Larceny (Restitution)* Vol. III.

VIII. Assaults with Intent to Rob.

This offence has already been noticed, under title *Assault*, Vol. I. p. 277. Assaults to rob.
It is provided against by the 7 & 8 Geo. IV. c. 29, s. 6.

IX. Demanding Money, &c. with Intent to Rob.

This offence will be found treated of under title *Threats*, *post*. It is provided against by the statute, 7 & 8 Geo. IV. c. 29, s. 6, 7. Threats to rob.

X. Liability of Hundred.

It seems, the hundred are now no longer liable in cases of robbery, but only for damages done by rioters. See the 7 & 8 Geo. IV. c. 27, *ante*, *Larceny*, Vol. III., repealing all the prior acts relative to such liability, and see the 7 & 8 Geo. IV. c. 31, rendering the hundred liable for damages by rioters, *Hundred*, Vol. III. Liability of hundred.

XI. Forms.

(No. 1.)

Commencement as usual, *ante*, p. 71, form No. 1.] *on, &c., at, &c., in and upon* Commitment for a robbery.
[the said] A. B. feloniously did make an assault, and him the said A. B. in bodily fear and danger of his life feloniously did put, and [five pieces of the current gold coin of the realm, called sovereigns, and one gold watch,] of the monies, goods, and chattels of the said A. B., from the person and against the will of the said A. B. feloniously and violently did steal, take, and carry away. And you, the said keeper, &c. [as usual, as *ante*, p. 71, No. 1, to the end.]

Sacrilege.

(No. 2.)

Indictment for a robbery.

The jurors for our lord the king upon their oath present, that A. O., late of , *on* , *with force and arms, &c., in the county of* , *[in the king's highway there,] upon one A. B., in the peace of God and of our said lord the king then and there being, feloniously did make an assault, and him the said A. B., in bodily fear and danger of his life, [in the highway aforesaid,] then and there feloniously did put, and [one gold watch, of the value of*] *[as to describing the goods, &c., see Larceny, Vol. III.], of the goods and chattels of him the said A. B., from the person and against the will of the said A. B., [in the highway aforesaid,] then and there feloniously and violently did steal, take, and carry away; against the peace of our said lord the king, his crown and dignity. [Add other counts, as the case may suggest. If any of the property stolen be not the subject of larceny, conclude the indictment, against the form of the statute, in such case made and provided.]*

The form of a warrant for apprehending a robber upon fresh suit, is inserted under the title *Peace and Trg.* Vol. III. p. 282.

Riot. See *Riot*, ante, p. 277.

Rule of Court, Proof, &c. of. See *Evidence*, Vol. II. p. 45.

Rum. See *Excise*, Vol. II.

Run Goods. See *Excise*, Vol. II.

Sabbath. See *Lord's Day*, Vol. III.

Sacrilege.

[7 & 8 Geo. IV. c. 29, s. 10.]

Breaking into or out of, and stealing in a church, sacrilege.
Death.

The 7 & 8 Geo. IV. c. 29, s. 10, enacts, "That if any person shall break and enter any church or chapel, and steal therein any chattel, or having stolen any chattel in any church or chapel, shall break out of the same, every such offender, being convicted thereof, shall suffer death as a felon."

See the general clauses affecting all the provisions of this act, ante, *Larceny*, Vol. III.

The 7 & 8 Geo. IV. c. 27, repeals the 23 Hen. VIII. c. 1, and also so much of the 1 Edw. VI. c. 12, as relates to this offence.

If a church-tower be built higher than the church, and have a separate roof, but have no outer door, and be only accessible from the body of the church, from which it is not separated by any partition, this tower is a part of the church, within the meaning of the above act. *R. v. Wheeler and others*, 3 C. & P. 585.

The statute is not confined to goods used for *divine service*; it extends to articles kept in the church to keep it in proper repair. And such goods will be under the protection of the statute whilst the church is under repair, unless they are brought in merely for the purpose of such repairs. So ruled by

all the judges, in *R. v. Rourke*, *R. & R. C. C.* 386; 5 *Burn's J.*, 24 *ed.* S. C. (a)

As to what will constitute a *breaking and entry*, see *Burglary*, Vol. I.

As to what will constitute *stealing*, see *Larceny*, Vol. III.

As to the mode of describing the property and ownership, see *Indictment*, Vol. III. p. 340 to 349; *Larceny*, Vol. III.; *Burglary*, Vol. I.

Goods in a dissenting chapel, vested in trustees, cannot be described as the goods of a servant who has merely the custody of the chapel and things in it, to clean and keep in order, though he has the key of the chapel, and no other person but the minister has another key. *R. v. Hutchinson*, *R. & R. C. C.* 412.

As to the *burning* of churches, see *Burning*, Vol. I.

As to other offences relative to churches, see *Church*, *Common Prayer*, Vol. I.; and *Lord's Day*, Vol. III.

(No. 1.)

Commencement as usual, *ante*, p. 71, form No. 1.] *on, &c., at, &c., in the said county, the church of the parish of A. B. [or, a certain chapel] there situate, feloniously did break and enter; and [one silver dish, and one silver cup, according to the fact] of the chattels of [the parishioners] of the said parish [see ante, Burglary, Vol. I.], feloniously and sacrilegiously did steal, take, and carry away: against the form of the statute in that case made and provided. And you, the said keeper, &c., [as usual, as ante, p. 71, No. 1, to the end.]*

Commitment for breaking into a church, &c., and stealing therein, on 7 & 8 Geo. 4, c. 29, s. 10.

(No. 2.)

Commencement as usual, p. 71, form No. 1.] *on, &c., at, &c., in the said county, [one silver dish, and one silver cup,] [according to the fact,] of the chattels of [the parishioners] of the said parish, in the church of the parish of, &c. [or, in a certain chapel,] there situate, feloniously and sacrilegiously did steal, take, and carry away; and the said C. D., being so as aforesaid in the said church [or, chapel,] and having therein so committed the said offence as aforesaid, on the same day and year aforesaid, feloniously did break out of the said church [or, chapel]: against the form of the statute in such case made and provided. And you, the said keeper, &c., [as usual, as ante, p. 71, No. 1, to the end.]*

Commitment for stealing in a church, &c., and breaking out of same.

(No. 3.)

— The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., with force and arms, &c., at, &c., the church of the said parish [or, a certain chapel, called, &c.], there situate, feloniously did break and enter, and then and there in the said church [or, chapel,] [one silver dish] of the value of 10*l.*, and [one silver cup] of the value of 10*l.* of the chattels of [the parishioners] of the said parish [see ante,

Indictment for sacrilege.

(a) *Catharine Rourke* was tried and convicted on the now repealed 1 Edw. VI. c. 12, s. 10, before *Bayley, J.*, at *Kingston Spring Assizes*, 1819, of sacrilege, in stealing an iron pot, value 6*s.*, and a snatch-block, value 4*s.*, the property of the churchwardens. The block was to raise weights in case the bells wanted repairing, and the pot for charcoal to air the scults. These articles had been kept in the church for years, and were not brought in for the repairs which were then in progress. The learned judge, doubting whether these were such goods as were entitled to the protection of the church, forbore pass-

ing the sentence, and submitted the point to the consideration of the judges. In Easter Term, 1819, the judges met, and were unanimously of opinion that a capital sentence ought to be passed upon the prisoner; as the protection of the place was not confined to what was used for divine service, but to what was kept to keep the church in proper order; and they thought that the protection continued, though the church was repairing. The judges thought the violation of the sanctity of the place was the thing the statute meant to prevent. *R. & R. C. C.* 386.

FORMS.

Burglary, Vol. I.,] in the church [or, chapel] aforesaid then and there being found, then and there feloniously and sacrilegiously did steal, take, and carry away: against the form of the statute in such case made and provided, and against the peace, &c. [Add other counts, as the case may suggest, and a count for stealing in a church and breaking out of it.]

See also **Burglary**, Vol. I.; **Larceny**, Vol. III.

Sales at Auction. See **Excise**, Vol. II.

Salmon. See **Fish** and **Fisheries**, Vol. II.

Salt. See **Excise**, Vol. II.

Salvage, Provisions as to. See **Ships**, *post*, p. 1044, &c.

Schoolmasters.

How far schoolmasters, being protestant dissenters, are exempted, as such, from the penalties inflicted by the law for teaching school without license, is treated of under the title **Dissenters**, Vol. I.

Where a schoolmaster, in correcting his scholar, happens to occasion his death, if on such correction he be so barbarous as to exceed all bounds of moderation, he is at least guilty of manslaughter; and if he make use of an instrument improper for correction, and apparently endangering the scholar's life, as an iron bar, a sword, or kick him to the ground, and then stamp on his belly, and kill him, he is guilty of murder. 1 *Haw. c.* 29, s. 5.

See further, titles **Homicide**, Vol. III. p. 245; **Assault**, Vol. I. p. 270.

Scold. See **Nuisance**, Vol. III.

Scotland.

Offender escaping into or out of, see *post*, **Warrant**, p. 989, 993.

Scotch Marriages, *ante*, **Polygamy**, p. 141.

As to the trial of offences in, see title **Indictment**, Vol. III. p. 332.

Lands in, give no qualification to sell game here, Vol. II. p. 882.

Sea. See **Admiralty**, Vol. I.; **Bathing**, Vol. I.; **Fish**, Vol. II.; **Rivers**, *ante*, p. 307.

As to Destroying Sea-Banks, see **Malicious Injuries to Property**, Vol. III. p. 731.

Seamen.

- As to *Apprenticeships* to the Sea-service, see *Apprentices*, Vol. I. p. 221.
 As to *Impressing* Seamen, see *Impressment*, Vol. III.
 As to *Servants* in general, see *Servant*, *post*.
 As to *Assaults* by or against, see *Assault*, Vol. I. p. 282.
 As to *Offences and Regulations* relative to *Ships* in general, see *Ships*, *post*.
 As to *Offences* relative to *Wrecks*, see *Wrecks*, *post*.
 As to *Enlisting* in foreign Service, see *Foreign Service*, Vol. II.
 As to the *Trials of Offences* Abroad, see *Admiralty*, Vol. I. p. 47.
 As to *Seamen Begging*, see 43 Geo. III. c. 61; *Military Law*, Vol. III.

I. Arrest—Court Martial, p. 327.

[22 Geo. II. c. 33; 31 Geo. II. c. 10; 44 Geo. III. c. 13.]

II. Exercising Trades, p. 328.

[22 Geo. II. c. 44; 3 Geo. III. c. 8.]

III. Swearing, &c. p. 329.

[1 Geo. I. st. 2, c. 25; 19 Geo. II. c. 21.]

IV. Falsely assuming Names, &c. of Seamen, to obtain Prize-Money, &c. p. 329.

[59 Geo. IV. c. 56; 1 & 2 Geo. IV. c. 49.]

V. Seamen in the Merchant Service—Recovery of Wages, Desertion, &c. p. 333.

[2 Geo. II. c. 36; 31 Geo. III. c. 39; 37 Geo. III. c. 73; 45 Geo. III. c. 81; 59 Geo. III. c. 58; 7 Geo. IV. c. 59.]

VI. Pay may be allotted to maintain Families, p. 338.

[35 Geo. III. c. 28; 37 Geo. III. c. 53; 46 Geo. III. c. 127.]

VII. Pensions, &c. to Widows, p. 344.

[49 Geo. III. c. 45; 10 Geo. IV. c. 14.]

VIII. Payment of Wages by Remittance-Bills, &c. p. 345.

[1 & 2 Geo. IV. c. 49.]

IX. Letters of Attorney and Wills, &c. p. 346.

[55 Geo. III. c. 60; 59 Geo. III. c. 59; 1 & 2 Geo. IV. c. 49.]

X. Forcing Seamen on Shore, or leaving them Abroad, p. 349.

[9 Geo. IV. c. 31, s. 26.]

XI. Assaulting Seamen, &c. to prevent their Working, &c. p. 350.

[9 Geo. IV. c. 31, s. 26.]

XII. Assaulting Commanders to hinder them from Fighting, &c. See *Assaults*, Vol. I.

XIII. Forms, p. 350.

I. Arrest.—Court Martial.

[22 Geo. II. c. 33; 31 Geo. II. c. 10; 44 Geo. III. c. 13.]

By the 31 Geo. II. c. 10, s. 28, no listed seaman shall be taken out of his majesty's service by any process other than for some criminal matter, unless affidavit be first made that the debt or damage amounts to 20*l*. In what cases they may be arrested.

ARREST.
COURT MAR-
TIAL.Seaman arrested
by civil or crimi-
nal process.

Sect. 22. But the plaintiff may, on notice first given to the defendant, enter a common appearance, and proceed to judgment and outlawry, and have execution other than against his body.

And in order to prevent the practice of obtaining the liberation of seamen by means of improperly suing out civil or criminal process, it is enacted, by the 44 Geo. III. c. 13, s. 1, that petty officers or seamen arrested by sheriffs or by other officers, and thereby taken out of his majesty's sea service, or from out of any ship appointed for receiving volunteers and impressed men, or from the custody of any officer in his majesty's sea service, shall be by such sheriff, &c., kept in custody after being entitled to be discharged from any process, and be conveyed to the commander-in-chief, or some commissioned officer authorized to raise seamen, or to some principal officer employed in regulating the service of raising men for the fleet, whichever shall be at or nearest the place where such petty officer, &c. shall happen to be, to serve on board his majesty's fleet. And the sheriff, gaoler, or other officer, shall be paid by the treasurer of the navy, upon producing a certificate for conducting such seaman, at the rate of 2s. per mile.

Sheriff, &c., con-
ducting such sea-
man, &c., how
to be paid.Transfer of such
seaman, &c., to
be certified.Remedy against
the sheriff, &c.,
for neglect.

Sect. 2. The transfer of such seaman from one sheriff, &c. to another, by virtue of *habeas corpus*, or otherwise, shall be certified upon the back of the process, by the party in whose custody they shall be, who shall state that such petty officer, &c. is liable to be kept in the service, or as the case may be.

Sect. 3. If any sheriff, &c. shall neglect or refuse to conduct or convey such seaman to any distance not exceeding eighty miles, for the space of two days; or to any distance not exceeding twenty miles, for the space of three days; and so at the rate of forty miles a day after the time that such petty officer, &c. ought to be so conducted, but shall wilfully or negligently keep him in custody for any space of time over and above the time above specified, without so conducting him, such sheriff, &c. shall be liable to an action of trespass at the suit of such petty officer, &c. or seaman.

Sheriff, &c., suf-
fering an escape.

Sect. 4. If any sheriff, &c. shall wilfully or negligently suffer any such seaman to escape, he shall be liable to the penalty of 100*l.*, recoverable in any of the courts of record at Westminster; one moiety thereof to the king, and the other to the party suing.

Limitation of
action; and
costs.

Sect. 5. And any action by virtue of this act must be brought within three calendar months after the fact; and if the plaintiff fail in such action, the defendant shall have treble costs.

What offences
the court martial
may punish.

By the 22 Geo. II. c. 33, s. 4, no court martial may punish or try any offence committed by any seaman in his majesty's service, which shall not be committed on the main sea, or in great rivers beneath the bridges, or in a haven or creek within the jurisdiction of the Admiralty; except in the case of spies, or of mutiny and desertion, or disobedience, or of offences committed on land in foreign countries.

Purser making
false entry.

A purser in the navy is liable, by the 22 Geo. II. c. 33, to be tried by a court martial for fraudulently and unlawfully charging blankets against seamen to whom none had been issued, and of making, in order to such charge, certain false entries in one of the ship's books, that being within the 36th article of war, an offence not capital, committed by a person in the fleet, not before mentioned in the act, and for which no punishment is thereby directed to be inflicted. *Mann v. Owen*, 9 B. & C. 595.

II. Exercising Trades.

[22 Geo. II. c. 44; 3 Geo. III. c. 8.]

Where they may
exercise trades.

By the 22 Geo. II. c. 44, and 3 Geo. III. c. 8, seamen who have been employed in the king's service since the accession of King George the Second, and not deserted, may set up and exercise such trade as they are apt for, in any town or place of Great Britain or Ireland, without molestation (except in Oxford or Cambridge); and if any person be sued thereupon, and the plaintiff

be cast, such person shall have double costs. See, also, now the 54 Geo. III. c. 96; *Apprentices*, Vol. I. p. 156.

SWEARING.
FALSE NAMES,
&c.

III. Swearing, &c.

[1 Geo. I. st. 2, c. 25; 19 Geo. II. c. 21.]

By the 19 Geo. II. c. 21, s. 5, a seaman, instead of being committed to the house of correction for default of paying the penalty for swearing, shall be put in the stocks for one hour for every single offence, and for any number of offences of which he shall be convicted at one and the same time, two hours.

Convicted of
swearing.

By the 1 Geo. I. st. 2, c. 25, s. 1 & 2, the treasurer, controller, surveyor, clerk of the acts, or any of the commissioners of the navy, may punish seamen and others making disturbances in the yards or offices, and may bind them to their good behaviour and to appear at the next assizes, or general quarter sessions, to be prosecuted for such offence.

Making disturb-
ance in the
yards.

See, *ante*, *Blasphemy*, Vol. I., and *post*, *Swearing*.

As to Drunkenness, see *Alchouses*, Vol. I. p. 100.

IV. *Falsely assuming Names, &c. of Seamen, to obtain Prize-Money, &c.*

The 59 Geo. III. c. 56, s. 3, enacts, "that if any person who† shall falsely represent himself or herself to be within any of the degrees of relationship in blood as before described, in order to enable himself or herself to receive any prize-money or bounty-money, or share of prize-money or bounty-money, due or to grow due for or on account of the services of any such petty officer, non-commissioned officer, seaman, or marine, supernumerary, or boy, under any such order as aforesaid; or who,† not being within any such degree of relationship, and not being licensed as aforesaid, shall receive any wages, pay, prize-money, bounty-money, or other allowances of money for the use of any such petty officer, non-commissioned officer, seaman, or marine, supernumerary, or boy; or if any agent or person, whose license shall have been revoked as hereinafter mentioned, shall offer himself to receive or shall receive any such wages, pay, prize-money, bounty-money, or other allowance of money, not being within any of the degrees of relationship aforesaid, and be thereof duly convicted, shall† be deemed guilty of a misdemeanor, and punished accordingly."

Persons falsely
representing
themselves as re-
lations, &c., in
order to receive
such wages or
prize money, or
receiving not
being duly li-
censed, misde-
meanor.

† *Stc.*

Sect. 12. "That if any person or persons shall knowingly insert, or cause to be inserted, in any order for the payment of prize-money, bounty-money, grants, or other allowances of money payable by the commissioners and governors of the royal hospital for seamen at Greenwich, or by their treasurer, any other date than the day on which the said order shall be executed, or shall knowingly present or utter any order bearing any false date as aforesaid, such person or persons shall, for every such offence, be deemed guilty of a misdemeanor, and punished accordingly."

Falsifying dates
of orders, mis-
demeanor.

Sect. 17. "That if any person or persons really entitled to prize or bounty-money, pension-money, grant, or other allowance of money on account of services on board of any ship or vessel, shall, by the production of any false certificate, or by making any false representation, obtain or endeavour to obtain from the said royal hospital, or from any licensed agent, the said prize or bounty-money, pension-money, or other allowance of money so due to him as aforesaid, such person or persons shall be deemed guilty of a misdemeanor, and shall forfeit all prize or bounty-money, pension-money, grant, or other allowance of money due to him on account of his said services."

Persons entitled
to prize-money
endeavouring to
obtain payment
by false certifi-
cates, &c., mis-
demeanor.

† *Stc.*

The 18th section enacts, "that if any person or persons shall willingly or knowingly personate, or falsely assume, or cause, procure, aid, or assist any person to personate or falsely assume the name or character of any commissioned officer, warrant or petty officer, or† seamen, or any commissioned or

Falsely assuming
name and char-
acter of others
entitled to prize
money, &c.,
forging, &c., let-

FALSELY ASSUMING NAMES, &c.

56 Geo. 3, c. 86.

ters of attorney, &c., to receive wages, &c., taking false oath to obtain probate, &c.

non-commissioned officer of marines, or marine, supernumerary, or boy, or any other person entitled, or supposed to be entitled to any wages, pay, prize-money, bounty-money, pension-money, or other allowances of money, for or in respect of services performed, or supposed to have been performed on board of any ship or vessel of his majesty, his heirs, or successors; or shall personate or falsely assume the name or character, or shall assist in personating or falsely assuming the name or character of the wife, widow, executor, or administrator, relation or creditor of any such officer, seaman, or other person, in order to receive any wages, pay, prize-money, bounty-money, pension-money, or other allowances of money due, or supposed to be due, for or in respect of the services of any such officer, seaman, marine, or other person as aforesaid, performed, or supposed to have been performed, on board of any ship or vessel of his majesty, his heirs, or successors; or shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or willingly act or assist in the false making, forging, counterfeiting, or altering any letter of attorney, order, bill, ticket, certificate of service, or other certificate whatsoever, assignment, last will, or other power or authority whatsoever, in order to receive or to enable any other person to receive any wages, pay, prize-money, bounty-money, pension-money, or other allowances of money due, or supposed to be due, for or in respect of the services of any such officer, seaman, marine, supernumerary, or boy, or other person as aforesaid, performed, or supposed to have been performed on board any ship or vessel of his majesty, his heirs, or successors, with intention to defraud any person or persons, body or bodies politic or corporate whatsoever; or shall utter or publish as true, or shall aid or assist in uttering or publishing as true, any false, forged, counterfeited, or altered letter of attorney, order, bill, ticket, certificate of service, or other certificate whatsoever, assignment, last will, or other power or authority whatsoever, knowing the same to be false, forged, counterfeited, or altered, in order to receive any wages, pay, prize-money, bounty-money, pension-money, or other allowances of money due, or supposed to be due, for or in respect of the services of any such officer, seaman, marine, supernumerary, or boy, or other person, as aforesaid, performed, or supposed to have been performed on board of any ship or vessel of his majesty, his heirs, or successors, with intention to defraud any person or persons, body or bodies politic or corporate whatsoever; or shall willingly and knowingly take a false oath to obtain the probate of any will or wills, or to obtain letters of administration, in order to receive or to enable any other person to receive any wages, pay, prize-money, bounty-money, pension-money, or other allowances of money due, or supposed to be due, for or in respect of the services of any such officer, seaman, marine, supernumerary, or boy, or other person as aforesaid, performed, or supposed to have been performed on board of any of his majesty's ships or vessels, his heirs, or successors, or shall demand or receive any wages, pay, prize-money, bounty-money, pension-money, or other allowances of money due, or supposed to be due, for or in respect of the services of any such officer, seaman, marine, or other person as aforesaid, performed, or supposed to have been performed on board any of his majesty's ships or vessels, upon or by virtue of any probate of any will or letters of administration, knowing the will on which such probate shall have been obtained to be false, forged, and counterfeited, or knowing the probate of such will, or such letters of administration, as last aforesaid, to have been obtained by means of any such false oath as aforesaid, with intention to defraud any person or persons, body or bodies politic or corporate whatsoever, then every such person or persons so offending, and being thereof convicted according to due course of law, shall be deemed guilty of felony, and shall suffer death as a felon, without benefit of clergy." (a)

Punishment. (a)

Offences relative to remittance-bills.

The 1 & 2 Geo. IV. c. 49, s. 2, enacts, that all and every the enactments, provisions, pains, penalties, &c. contained in the 55 Geo. III. c. 60, which are

(a) Now, by 1 Wil. IV. c. 66, this offence is punishable only with transportation or imprisonment.—See *Forgery*, Vol. II.

applicable to remittance-bills, shall be equally applicable to the remittance-bills authorized by the 1 & 2 Geo. IV. c. 49.

Sect. 3 of that act, after reciting the expediency of extending the provisions of the 55 Geo. III. c. 60, enacts, "that if any person or persons shall cause or procure any other person to sign or subscribe, or utter or publish any such false petition or application to the treasurer or paymaster of his majesty's navy for the time being, as is mentioned in the said last-mentioned act, for any of the purposes mentioned in that act; or if any person or persons shall cause or procure any other person to demand or receive any wages, pay, prize-money, bounty-money, or other allowance of money, due, or supposed to be due, for or in respect of the services of any such petty officer or seaman, non-commissioned officer of marines or marine, upon or by virtue of any certificate from the inspector of seamen's wills or his assistant, knowing such certificate to have been obtained by false representations or pretences; every such person shall, on being convicted of any such offence in due form of law, be transported beyond the seas for the term of seven years, in like manner as persons convicted of felony are directed to be transported by the laws and statutes of this realm."

Sect. 4. enacts, "that if any person or persons shall cause or procure any other person to utter or publish as true, any false, forged, counterfeited, or altered letter of attorney, bill, ticket, certificate purporting to be a certificate from the inspector of seamen's wills and powers, or his assistant, assignment, last will, or other power or authority whatsoever mentioned in that act, for the purpose and with the intention therein also mentioned, knowing the same to be false, forged, counterfeited, or altered; or shall cause or procure any other person to demand or receive any wages, pay, prize-money, bounty-money, or other allowances of money, due, or supposed to be due, for or in respect of the services of any such petty officer, seaman, non-commissioned officer of marines or marine, or other person, as in that act mentioned, performed, or supposed to have been performed on board any of his majesty's ships or vessels, upon or by virtue of any probate of any will or letters of administration, knowing the will on which such probate shall have been obtained to be false, forged, and counterfeited, or knowing the probate of such will or such letters of administration, as last aforesaid, to have been obtained by means of any such false oath as in that act mentioned, with the intention therein also mentioned; every such person or persons so offending, and being thereof convicted according to due course of law, shall be deemed guilty of felony, and shall suffer death as a felon, without benefit of clergy."

But see, now, the 1 Wil. IV. c. 66, by which this offence is punishable only with transportation or imprisonment. See *Forgery*, Vol. II.

Where an indictment on the 57 Geo. III. c. 127, s. 4, charged the prisoner with having wilfully and knowingly personated and falsely assumed the name and character of Peter McCann, a person entitled to prize-money, in order to receive such prize-money, with intent to defraud the Commissioners and Governors of the Royal Hospital for Seamen at Greenwich, and a second count described the said Peter McCann as a person "supposed to be entitled," &c. for services "supposed to have been performed;" and upon the evidence, it appeared by the prize-list and muster-book, that there was a person of the name of *Peter McCann*, entitled to prize-money, but no person of the name of *Peter McCann*; it was considered by the twelve judges that the variance was fatal. *R. v. Tunnell, Kent Lent Ass.* 1818; 3 *Stark. Evid.* 1578, 56.

All persons aiding and abetting the personating seamen are principals; and the offence is not confined to the person only who personates the seaman. *R. v. Potts, alias Dangreen, R. & C. C.* 353. The prisoner was tried before *Wood, B.* at the *Kent Lent Assizes*, 1818, on an indictment on the 57 Geo. III. c. 127 s. 4, containing, amongst others, the two following counts, viz:—"The first count charged, that *Martha Potts*, late of, &c., single woman, otherwise called *Martha* the wife of *Gustoff Dangreen*, on the 1st of May, 57 Geo. III., with force and arms, at the parish, &c., feloniously, willingly, and knowingly did procure

FALSELY ASSUMING NAMES, &c.

Procuring persons to sign or utter false applications to treasurer or

paymaster of navy, or to apply for pay, &c., on false certificates, transportation for seven years.

Procuring others to utter forged letters of attorney, &c., or to apply for pay on probates of forged wills, &c.

Punishment.

Decisions.

**FALSELY AS-
SUMING
NAMES, &c.**

one *John Williams* to personate, and falsely to assume the name and character of *Thomas Jacobs*, a person entitled to a certain allowance of money, for services done on board certain ships of our said lord the king, in order to receive such allowance of money, due and payable for and on account of the services of the said *Thomas Jacobs*, as aforesaid; and that the said *John Williams*, by the procurement of the said *Martha Potts*, otherwise called *Martha Dangreen* as aforesaid, and then and there, with force and arms, feloniously, willingly, and knowingly, did personate, and falsely assume the name and character of the said *Thomas Jacobs*, a person entitled to a certain allowance of money, for services done on board certain ships of our said lord the king, in order to receive such allowance of money due and payable for and on account of the services of the said *Thomas Jacobs* as aforesaid, with intent to defraud the commissioners and governors of the Royal Hospital for seamen at Greenwich, in the county of Kent, against the form of the statute, &c., and against the peace, &c.

The thirteenth count charged, that the said *John Williams*, late of, &c., afterwards, to wit, on the said 1st of May, in the year aforesaid, with force and arms, at Greenwich aforesaid, in the county aforesaid, feloniously, willingly, and knowingly did personate and falsely assume the name and character of one *Thomas Jacobs*, a person entitled to a certain allowance of money, for services done on board certain ships of our said lord the king, in order to receive such allowance of money due and payable for and on account of the services of the said *Thomas Jacobs* as aforesaid, with intent to defraud the commissioners and governors of the Royal Hospital for Seamen at Greenwich, in the county of Kent; and that the said *Martha Potts*, otherwise called *Martha Dangreen*, then and there, to wit, at the time of committing the felony aforesaid, with force and arms, feloniously, wilfully, and knowingly was present, aiding, abetting, assisting, comforting, and maintaining the said *John Williams* to do and commit the felony aforesaid, in form aforesaid; and so the jurors aforesaid, upon their oath aforesaid, do say, that the said *John Williams* and the said *Martha Potts*, otherwise called *Martha Dangreen*, the felony aforesaid, in manner and form aforesaid, feloniously, willingly, and knowingly did do and commit, against the form of the statute, &c., and against the peace, &c. There being no evidence of previous procurement, the jury acquitted the prisoner on the first count and all the other counts in the indictment except the thirteenth, on which they found the prisoner guilty, she being present and asserting that *John Williams* was *Thomas Jacobs*. The learned judge respited the judgment to take the opinion of the judges upon this count, doubting whether it was a good one, as the act makes no provision as to aiders, abettors, assisters, comforters, and maintainers, in that part which relates to personating seamen, though, in a subsequent part, as to forging letters of attorney, &c., it provides against those who shall willingly act or assist therein, or with respect to uttering and publishing, against those who shall aid and assist. The learned judge also doubted whether the doctrine of a principal in the second degree (which seemed to be the idea of this count) could apply to this case; because principals in the second degree, and principals in the first degree, may be charged jointly as doing the act; whereas it appeared to the learned judge difficult to allege that a man and a woman jointly personated one man." *J. W.* had been convicted of personating *J.* at a former assizes, and the record of his conviction was produced to prove that fact, on this indictment. The judges unanimously held the conviction right.

A bill drawn on the commissioners of the navy for pay, may be a bill of exchange, and a person may be indicted for the forgery of it as such, although it be not in the form prescribed by the 35 Geo. III. c. 94. *R. v. Chisholm, R. & Russ. C. C. R. 297.*

V. Seamen in the Merchant Service.—Recovery of Wages, Desertion, &c.

[2 Geo. II. c. 36; 31 Geo. III. c. 39; 37 Geo. III. c. 73; 45 Geo. III. c. 81; 59 Geo. III. c. 58; 7 Geo. IV. c. 59.]

Concerning seamen in the merchant service, it is enacted by the 2 Geo. II. c. 36, s. 1, that it shall not be lawful for any master or commander of any ship or vessel bound to parts beyond the seas [and by the 31 Geo. III. c. 39, s. 1, the same is extended to masters of vessels trading coastwise], to carry any seaman or mariner, except his apprentice or apprentices, to sea, from any port or place where he or they were entered or shipped, to proceed on any voyage to parts beyond the seas, without first coming to an agreement or contract with such seaman or mariner for their wages, which agreement or agreements shall be made in writing, declaring what wages each seaman or mariner is to have respectively during the whole voyage, or for so long time as he or they shall ship themselves for; and also to express in the said agreement or contract the voyage for which such seaman or mariner was shipped, to perform the same; on pain that the master shall forfeit 5*l.* for every such seaman or mariner, to the use of Greenwich Hospital, to be recovered on the oath of one witness, before one justice, who shall issue his warrant to bring such master or commander before him; to be levied by distress; and if no distress can be found, to be committed to gaol till he shall pay the same.

2 Geo. 2, c. 36, made perpetual by 2 Geo. 3, c. 31, s. 1.

Agreements for wages to be made in writing, and signed.

Penalty.

Sect. 2. Such seaman or mariner shall also sign the agreement in three days after he is entered on board.

Seamen to sign the agreement.

By the 37 Geo. III. c. 73, s. 11, such agreement shall be agreeable to the purport and affect of a schedule annexed to the act.

By the 2 Geo. II. c. 36, s. 7, the masters shall pay the seamen, &c., their wages, if demanded, in thirty days after the ship's being entered at the custom-house [and in vessels trading coastwise in five days, the 31 Geo. III. c. 39, s. 5] (unless there be a covenant to the contrary), or at the time they shall be discharged, which shall first happen, if demanded, deducting the penalties of this act, on pain of paying to each seaman, &c., that shall be unpaid, 20*s.* above his wages, to be recovered by the same means and methods as the wages may be recovered.

How wages to be paid.

But by the 2 Geo. II. c. 36, s. 8, and 31 Geo. III. c. 39, s. 6, no mariner, by entering into or signing such agreement, shall be deprived of any means for recovery of wages which he may now use; and the master shall be obliged to produce the contract, and not the mariner.

By the 31 Geo. III. c. 39, s. 9, in case of vessels trading coastwise, where the contract for wages shall be by the voyage, and not by the month or other stated time, the penalties shall be ascertained in manner following: viz. if the length of the voyage exceed a lunar month, the forfeiture of one month's pay shall be deemed a forfeiture of a sum of money bearing the same proportion to the whole wages as a lunar month shall bear to the whole time spent in the voyage; and in like manner the forfeiture of two days' pay, &c., as two days shall bear to the whole time of the voyage; and if the whole voyage shall not exceed one lunar month, or shall not exceed two days, the said forfeiture shall be deemed a forfeiture of the whole wages.

Where the contract for wages is by the voyage, and not by the month.

Agreements exempt from stamps.

Sect. 10. No agreement made by virtue of this act shall be liable to any stamp-duty. And nothing herein shall extend to vessels trading coastwise under one hundred tons' burden.

Vessels under one hundred ton.

By the 59 Geo. III. c. 58, entitled, "An Act for facilitating the Recovery of the Wages of Seamen in the Merchant Service," after reciting, that "whereas the seamen and mariners employed in the merchant service, and in the coasting trade of this kingdom, are exposed to great difficulties, expense, and inconvenience, in suing for or obtaining payment of their wages, in cases of dispute

**MERCHANTS'
SERVICE,
WAGES, &c.**

Justices empow-
ered, on com-
plaint of seamen,
to hear and settle
disputes about
wages, not ex-
ceeding 20%.

may examine
seaman, &c.,
upon oath.

On refusal to
comply with
justices' determi-
nation, how
wages to be re-
covered.

with the masters or owners of vessels in which they may have served, and it is expedient that greater facility should be given for recovery of such wages;" it is enacted, "that from and after the 1st day of August, in the year of our Lord 1819, it shall be lawful for any seaman, mariner, or other person (except masters or apprentices), who shall have served on board any ship or vessel trading from any port or place, or ports or places, in that part of the United Kingdom called England, to ports beyond the seas, or to any other port or place in Great Britain, by virtue or in pursuance of any contract or engagement, in writing or not in writing, and whether the same be by parol or by deed under seal, or otherwise, in case the master or commander, or other person, having or taking the charge of any such ship or vessel, after the expiration of two days from the time of entry of such ship or vessel at the custom-house, or from the delivery of her cargo, or from the time when such seaman or mariner, or other person (except as aforesaid), shall be discharged, which shall first happen (unless an agreement shall have been made and entered into to the contrary, and in that case, after the expiration of the time so stipulated or agreed for the payment of such wages, as aforesaid), neglect or refuse to pay to any such seaman, mariner, or other person (except as aforesaid), his or their wages, or any part thereof, to complain (a) to any justice or justices of the peace residing in or near to the place where such ship or vessel shall have ended her voyage, or been cleared at the custom-house, or delivered her cargo, or to any justice or justices of the peace residing in or near to the place where such master or commander, or other person having or taking the charge of any such ship or vessel, or (in case of there being no master or commander, or other person in charge of any such ship or vessel) where any owner or owners thereof shall then happen to be, and thereupon it shall be lawful for any such justice or justices of the peace respectively, and they are hereby required, upon such complaint made to them upon oath or affirmation, to issue a summons (b) to such master or commander, or other person having or taking the charge of any such ship or vessel, or (in case of there being no master or commander, or other person in charge of any such ship or vessel) to such owner or owners thereof, to appear before them at such time and place to be in such summons specified; and upon the party or parties appearing in pursuance of such summons, or not appearing after having been so summoned, the said justice or justices shall, and they are hereby empowered to examine upon oath such seaman, mariner, or other person (except as aforesaid), or any other witness or witnesses, touching any such complaint, or any difference or dispute respecting such wages, and to make such order for payment (c) of so much wages to such seaman, mariner, or other person, as aforesaid, as to such justice or justices shall seem reasonable and just; provided that the sum in question do not exceed 20% so claimed to be due to any one seaman, mariner, or other person as aforesaid; and in case of refusal to pay, or non-payment of any sum or sums of money so ordered, by the space of two days next after such order and determination, such justice or justices shall and may issue forth their warrant (d) to levy the same by distress and sale of the goods and chattels of such master or commander or other person having or taking the charge or command of any such ship or vessel, or (in case of there being no master or commander, or other person in charge of any such ship or vessel) of any such owner or owners as aforesaid, rendering the overplus (if any there be), after deducting all the costs, charges, and expenses of any summonses, informations, complaints, hearings, warrants, and of such distress, and the keeping, appraisement, or sale thereof, or otherwise relating thereto, unto the person or persons whose goods and chattels shall be so distrained and sold; and in case sufficient distress shall not be found for payment and satisfaction of the amount of wages so ordered to be paid by such justice or justices, and the same, with such costs, charges, and expenses as aforesaid, shall not be paid within the said period of two days, it shall and may be lawful for such justice or justices of the peace, and they are hereby authorized

(a) Form (No. 1), *post*.

(b) Form (No. 2), *post*.

(c) Form (No. 3), *post*.

(d) Form (No. 4), *post*.

and required, by warrant (a) or warrants under their hands and seals, to levy the amount of the wages so ordered to be paid, together with such costs, charges, and expenses as aforesaid, on the ship or vessel for the service on board which such wages shall be so ordered to be paid, or any of the tackle, furniture, or apparel thereof, rendering the overplus thereof (if any), after payment of such expenses as aforesaid, to the master or commander or owner thereof; and the decision of such justice as aforesaid shall be final and conclusive as well on such seaman, mariner, or other person, as upon such master or commander, or other person taking the charge or command of such ship or vessel, and the owner or owners thereof; save and except in such cases in which an appeal shall be interposed by either party to the High Court of Admiralty, such appeal to be interposed within the space of seven days after the order of the said justice or justices so to be made as aforesaid."

**MERCHANT'S
SERVICE,
WAGES, &c.**

59 Geo. 3, c. 58.

Justices' determination final, unless appeal to Admiralty within seven days.

Section 2. "That in case the seaman or mariner, or other person so claiming to be entitled to such wages as aforesaid, or the party or parties who is or are ordered to pay the same, or their agents respectively, shall be dissatisfied with such order and decision of the justice or justices touching such wages as aforesaid, it shall be lawful for either of them respectively, within forty-eight hours after the making such order as aforesaid, but not afterwards, to give notice in writing, to the justice or justices so making such order, of his, her, or their desire of obtaining the judgment of the High Court of Admiralty respecting the said wages and the order so made thereon as aforesaid, by delivering the same to such justice or justices, or leaving the same at their last or most usual place of abode; and thereupon the party so resisting or disputing the claim to such wages, or the order to be made by such justice or justices thereon, shall be compelled to proceed within thirty days from the date of such order, by taking out a monition against the adverse party, and shall, on the service of such notice, give good and sufficient bail in double the amount of the wages so ordered to be paid as aforesaid, and which bail shall be taken by a commissioner for taking examinations in prize causes, if there shall be one in the port or place where such difference shall arise or order be made, but if there shall be no such commissioner there, then the said justice or justices who shall pronounce such order, or any other of his majesty's justices of the peace, are hereby authorized to take the same; and the commissioner, justice, or justices, who shall take such bail, shall certify the same according to the form contained in the schedule hereunto annexed, and transmit the same without delay to the High Court of Admiralty, and also a copy of the order so made by such justice or justices, on unstamped paper, certified under the hand or hands of such commissioner, justice or justices, taking the bail as aforesaid, and the same shall be admitted by such Court of Admiralty as evidence in the cause."

Notice of appeal.

Bail to be given on service of notice.

Commissioner or justice to certify same.

Section 3. "That no seaman or mariner or other person, by entering into or signing any contract or agreement as required by the several statutes now in force for that purpose, or into any covenant, stipulation, or agreement to be comprised in any such contract or agreement, which shall have the effect, or be designed or intended to have the effect, of depriving such seaman, mariner, or other person of the remedies by this act given for recovery of wages so due to him or them as aforesaid, shall be deprived of or hindered from using any method or means for recovery of wages, against any ship, or the masters or owners thereof, which immediately before the passing of this act he might, and which after the said first day of August he may make use of; and that in all cases where it shall or may be necessary, in resorting to the remedies by this act given for recovery of such wages as aforesaid, that the agreement or agreements in writing aforesaid should be produced before such justice or justices as aforesaid, no obligation shall be on any seaman, mariner, or other person as aforesaid, to produce the same, but such obligation shall lie on the master or commander, or other person having the charge or command, or the owner or owners of the ship or vessel for which the wages shall be demanded; and no seaman or mariner shall fail in any complaint or proceeding before any justice or justices for recovery of wages for want of such agreement or agreements

Proviso for agreements entered into by seamen before the passing of this act.

**MERCHANT'S
SERVICE,
WAGES, &c.**

59 Geo. 3, c. 59.
Proviso for seamen in respect of any remedy which may now be resorted to.
Act not to extend to Scotland.
Public act.

Act continued.

Form.

being produced, but shall and may proceed therein as if no such agreement in writing had been made."

Sect. 4. "That nothing in this act contained shall extend or be construed to extend to deprive any seaman, mariner, or other person as aforesaid, of any remedy, means, or process which may now be resorted to or used against any ship or vessel, or the master or commander or person having the charge of such ship or vessel, or the owner or owners thereof, for the recovery of wages due for serving on board of any such ship or vessel."

Sect. 5. That nothing in this act contained shall extend to Scotland.

Sect. 6. This act shall be deemed to be a public act; and, by sect. 7, shall continue in force for seven years from the second of July, 1819.

The act has been continued for seven years more, by the 7 Geo. IV. c. 59.

The following is the schedule referred to by the 59 Geo. III. c. 58:—

" } On the day of , in the year of our Lord one thousand
to wit. } eight hundred and , before , at , in
the county of , A. B. and C. D. appeared personally, and produced them-
selves as sureties for , the master of the ship , and for
the owners thereof; and, submitting themselves to the jurisdiction of the said Court of
Admiralty of England, bound themselves, their heirs, executors, and administrators,
for the said master and owners of the said ship, in the sum of each, of
lawful money of Great Britain, unto E. F., a seaman, having served on board the said
ship, to answer the amount of such wages as shall be hereafter decreed by the said
court to be due to be said E. F., according to the tenor of the act in that case made
and provided; and, unless they shall so do, they hereby consent that execution shall
issue forth against them, their heirs, executors, and administrators, goods and chattels,
whereon the same shall be found, to the value of the sum above-mentioned.

† Sic.

" This bail was duly taken, acknowledged, and received, at the time hereinbefore
above written, before me, the undersigned commissioner [or, as the undersigned justice
or justices of the peace]; and I [or, we] do believe and consider the persons above-
mentioned sufficient security for the sum above-mentioned."

Justices may com-
mit deserters to
the house of cor-
rection, &c.

By the 2 Geo. II. c. 36, s. 4, if the mariner *desert* or absent himself after he hath signed the agreement, on application to any justice, from the master, owner, or commander, or other person having charge or command of the ship, such justice may cause him to be apprehended; and if he shall refuse to proceed on the voyage, without sufficient reason to the satisfaction of the justice, the said justice shall commit him to the house of correction, there to be kept to hard labour not exceeding thirty days, nor less than fourteen days.

And by the 2 Geo. II. c. 36, s. 6, and 31 Geo. III. c. 39, s. 4, if any mariner, not entering into the king's service, shall leave the ship before he shall have a discharge in writing by the master, he shall forfeit one month's pay, to be recovered and disposed of as hereafter is mentioned.

By the 31 Geo. III. c. 39, s. 3, if any mariner (in the coasting trade), after he shall have entered into such agreement, shall neglect or refuse to proceed on the intended voyage for which he shall have entered, or upon which such ship shall be destined to proceed, he shall forfeit to the owner all wages due at the time of such refusal; and on complaint to any justice by the master, commander, or owner, or other person having charge or command of the ship, he shall issue his warrant to apprehend such mariner; and if he shall refuse to proceed on the voyage agreed upon, or on which the ship shall be destined to proceed, within the time contracted for, without sufficient reason, to the satisfaction of the justice, the justice shall commit him to the house of correction, there to be kept to hard labour for not exceeding thirty days, nor less than fourteen days.

By sect. 10. This act not to extend to vessels under one hundred tons, or not going to open sea.

And by the 45 Geo. III. c. 81, if, upon being so apprehended, the seaman or mariner (in coasting trade) shall not give sufficient reason for the refusal, to the satisfaction of the justice, he shall commit him (as in the 31 Geo. III. c. 39, s. 3, specified).

By the 37 Geo. III. c. 73, s. 1, to prevent the desertion of seamen from mer-

chant ships, every seaman, mariner, or other person, who shall desert during the voyage, either out or home, from any British merchant ship trading to or from his majesty's colonies in the West Indies, shall, over and above all punishments, penalties, and forfeitures, to which he is now subject, forfeit all the wages he may be entitled to from the master or owner of the ship on board of which he shall enter immediately after such desertion.

Sect. 2. And every master or commander of any such ship, who shall engage any such person, knowing him to have deserted from any other ship, shall forfeit 100*l*.

Sect. 3. No such master or commander shall hire, or procure to be hired, any seaman, or other person, in any port in the said colonies, at more than double the monthly wages such person contracted for when he entered on board, being in the same degree, unless authorized by the governor, chief magistrate, collector, or controller of such port, in writing, under his hand; and all agreements contrary thereto shall be void, and the person hiring or procuring, &c. any seaman, &c. contrary to the intent and meaning of this act, shall forfeit 100*l*.

Sect. 4. And the master of every such ship shall have on board, at the time the same is cleared out from Great Britain, one apprentice, under seventeen years of age, and duly indented for three years, for every one hundred tons' admeasurement of such ship, according to the certificate of registry; and such indenture shall be duly enrolled at the custom-house of the port within one month after the date of execution thereof; and such apprentices shall be exempt from serving in his majesty's navy for that term; and every owner or master neglecting to enrol such indenture in manner aforesaid, shall forfeit 10*l*, to be paid one moiety by the owner, and the other moiety by the master, and to be recovered as hereinafter mentioned.

Sect. 5 relates to the masters giving in lists of those who have died during the voyage.

Sect. 9 enacts, "that the penalties and forfeitures given by this act shall be paid and applied in manner following; that is to say, one-third part thereof for and towards the support of Greenwich Hospital; one other third part thereof for and towards the support of the seaman's hospital at the port to which the ship or vessel in respect of which the forfeiture shall arise belongs; but in case there shall be no seaman's hospital at the port to which such ship or vessel belongs, then to and for the use and benefit of the old and disabled seamen of the same port and their families, to be distributed at the discretion of the persons having the direction of the merchant seamen's fund at such port, or in case there shall be no such establishment there, by the magistrates or overseers of the poor of such port; and the other third part thereof to and for the person or persons who shall inform and sue for the same; and that such penalty shall be recovered by bill, plaint, or information, in any of his majesty's courts of record at Westminster; or such of them as do not exceed the sum of 20*l*, upon information, on the oath of one or more witnesses, before any one or more of his majesty's justice or justices of the peace in any part of the kingdom of Great Britain, who shall not reside more than ten miles from the place of abode of the person or persons complained of, which justice and justices is and are hereby authorized and required to issue out his or their warrant or warrants to bring before him or them every person charged with any offence under this act; and in case he or she shall refuse or neglect to pay such penalties or forfeitures, as aforesaid, to issue his or their warrant or warrants to levy the same by distress and sale of the offender's goods, and in case no distress can be found, to commit the offender or offenders to the common gaol of the city, town, or place within the jurisdiction of such respective justice or justices, there to remain for the space of three calendar months, or until he or they shall pay the same."

There are several other provisions and regulations made by the 37 Geo. III. c. 73, relating to seamen in the merchants' service; but being no way connected with the office of a justice of the peace, it is quite foreign to this work to insert them here.

**MERCHANTS'
SERVICE,
WAGES, &c.**

Seamen deserting
merchant ships
trading to or from
the West Indies.

Masters hiring
seamen who have
deserted.

Masters hiring
seamen in the
West Indies.

To have an ap-
prentice for every
hundred tons. (a)

Disposition of
penalties.

Recovery of pe-
nalties.

(a) See *Apprentices*, Vol. I. p. 221.

VI. Pay allotted to maintain Families.

[35 Geo. III. c. 28; 37 Geo. III. c. 53; 46 Geo. III. c. 127.]

Petty officers, seamen, &c., may allot a part of their pay for the maintenance of their families.

By the 35 Geo. III. c. 28, s. 1, after 1st May, 1795, every petty officer and seaman, or landman, non-commissioned officer of marines, and marine [and by the 35 Geo. III. c. 95, the same is extended to boatswains, gunners, and carpenters], serving or entering on board any vessel of his majesty, may allot a certain part of his monthly pay for the maintenance of his wife and children, or mother.

And by the 37 Geo. III. c. 53, s. 1, 3, 4, an increase of wages is made to such persons, and they are empowered to allot a part of such pay, to be calculated as nearly as may be to equal one-half thereof, and according to the table therein given.

Petty officers, &c., being wounded.

Sect 2. And all petty officers, able seamen, ordinary seamen, landmen, and marines, who may hereafter be wounded in action with the enemy, shall receive their full wages and allowances until their wounds are healed; or until (being declared incurable) they shall receive a pension from the chest at Chatham, or be admitted into Greenwich Hospital.

Volunteers, at the time of entering, may allot a part of their pay to be paid as herein specified.

By the 35 Geo. III. c. 28, s. 2, if any seaman or landman shall voluntarily enter himself with any regulating officer, and shall at the same time declare his name and place of abode, and that he is married, and the name of his wife, and her place of residence, and if he have children, how many, and how many are boys; or that he has a mother then living, and the place of her residence; and that he is willing to allot a part of his wages for their support; then, in case his wife or mother reside in London, the same shall be paid by the treasurer of the navy; if at Portsmouth, Plymouth, or Chatham, or within five miles thereof respectively, by the clerk of the check at those places; elsewhere, by the receiver-general of the land-tax of the county or city, or collector of the customs or excise nearest the residence of such wife or mother. And such regulating officer shall make out three declarations of allotment, and three orders of payment, to be triplicates of each other, which shall be in the following form:—

Regulating officer to make out three declarations of allotment of pay, and order of payment.

Form.

“No. I.

I, *A. B.*, { Petty officer,
Seaman,
Landman,
Non-commissioned officer of marines,
Marine, } do hereby declare,

that I { having a } wife { and one child, a boy
 { having a } mother { and children, of whom are boys, } }
living at { entered this day to serve in his majesty's navy, } in the county
of { now serving on board his majesty's ship, } have allotted
 { per day, out of my wages, for the maintenance
of my { wife { and child } } and I do hereby direct you to pay or cause to
 { mother { and children } }
be paid to C. D., my { wife { mother } } living in the place and county aforesaid, at the
end of every twenty-eight days from the date hereof, the sum of , being at
the rate of per day out of the wages or pay to grow due to me as a
in his majesty's navy, a duplicate hereof having already been transmitted to you,
signed by three of the commissioners of his majesty's navy, upon her producing a certificate, under the hands of the minister and the churchwardens, or churchwarden, or the elders or elder, of the parish where she resides, that, to the best of their knowledge, the said C. D. is my { wife { mother } } or, in the event of the death of my wife, pay the sum aforesaid to the person who shall by the minister and churchwardens, or churchwarden,

PAY TO MAINTAIN FAMILIES.

35 Geo. 3, c. 28.

rations and orders are addressed, to examine the same, and also certificates of ministers, &c., and to pay the sum allotted gratis.

Wife dying, and leaving children under fourteen. Three certificates and orders to be made out.

mother shall reside, shall be presented to the treasurer of the navy, or other public officer, to whom the same is addressed, who shall examine into the truth thereof (upon the oath of such wife or mother, if necessary, which oath such officer is authorized to administer), and upon his being satisfied, he shall immediately pay to such wife or mother the sum so allotted, without fee or deduction, taking her receipt for the same, signed with her name or mark, and shall sign his name as witness thereto, and shall mark such receipt with the same number as that of her husband's declaration and order, and shall also mark thereon the sum paid, and the date, and the time from whence and up to what time the same so became due, and shall deliver back such declaration and order to such wife or mother; and shall also mark such triplicate in like manner; and at the end of every twenty-eight days afterwards, upon similar application, a like payment shall be made in the same manner.

Sect. 6. And if the wife of any such person shall die and leave a child or children under fourteen, the minister and churchwarden where such wife resided at the time of her death, shall certify to the commissioners of the navy the day of her death; and if children are left, the ages of those under fourteen, as near as they can, and how many are boys; and shall also certify their intention of appointing a fit person resident within such parish to receive that part of the father's wages allotted for the maintenance of his children, in case of his wife's death; and, along with such certificate, shall also transmit the triplicate of the declaration and order which was in her possession at the time of her death; and if the commissioners of the navy are satisfied of the truth thereof, and that the father is still alive, and in the service of his majesty, they shall make out three certificates and orders, which shall be triplicates of each other, in the following form:—

Form.

"No. 1. We, _____, the minister and _____, [churchwardens or churchwarden, elder or elders], of the parish of _____, in the county of _____, do hereby certify and declare, that _____, wife of _____, petty officer, _____, } serving in his majesty's navy, died on the _____ day of _____, and was buried in the said parish, where she had resided _____ months } previous to her death. And we further certify and declare, that there { is } living in this parish { a child } under the age of fourteen years, of the aforesaid _____, late the husband of the aforesaid _____, deceased, { who is a girl, or boy } and we have appointed _____, of _____, in { of whom are boys } this parish, to receive such allowance as the aforesaid _____, the father, has allotted out of his wages or pay due, or to become due, for his service in the navy, for the maintenance and support of his said { child } in the event of the death of his wife. And we request that you will give the necessary order, that the wages or pay of the father so allowed, as aforesaid, shall and may in future be paid to the said _____, for the maintenance of the { child } of the said _____, children } under our inspection and direction. Dated at _____, this _____ day of _____.

Signed A. B. Minister.
C. D. } Churchwardens
E. F. } or Elders."

"To the Commissioners of his Majesty's Navy."

"We, _____, and _____, two of his majesty's justices of the peace in and for the county of _____, do hereby certify and attest to the commissioners of his majesty's navy, that the facts set forth in the above certificate are true, to the best of our knowledge and belief; and that the said _____ named therein is a fit and proper person to receive the wages allotted by the above _____, for the maintenance and support of his { child, } in the event of the death of his wife; and we { children, }

do hereby approve of him in that respect. Dated at _____, this _____ day

Signed G. H. } Justices of the peace for the
I. K. } county of _____

PAY TO MAIN-
TAIN FAMI-
LIES.
33 Geo. 3, c. 28.

"London, the _____ day of _____
"We approve of the above, and allow the same, and order the payment of that part
of the wages allotted by the above-mentioned _____ for the maintenance and support
of his { child } in the event of the death of his wife, to be paid to the above-named
{ children } for that purpose.

Signed L. M. }
N. O. } Commissioners of the Navy.
P. Q. }

To { the Treasurer of the Navy.
the Receiver-General of the Land Tax of
the Collector of the Customs at the Port of
the Collector of the Excise at
the Clerk of the Check at
"}

And shall send the same to the minister or churchwardens of the parish where the wife died, who shall fill up the blanks, and the minister and churchwardens together shall sign the same, and having procured two justices of the county wherein such parish lies to attest the same, shall return the said three triplicates to the commissioners of the navy, who shall, on the receipt thereof, examine the same, and, if found right, shall mark each of the triplicates with the same number with which the original declaration and order was numbered; and three of the said commissioners shall date and sign their allowance thereof, and shall address each of them to the same public officer to whom the original was addressed, who shall transmit one of them to the person so appointed by such minister and churchwarden, and approved by the justices, together with the original declaration and order which was sent to them as aforesaid; and another thereof shall be transmitted to the treasurer of the navy, or other public officer appointed to pay the same, as the case may be; and the third shall be delivered to the treasurer of the navy.

To be sent to the
minister, &c., and
attested by two
justices.

Sect. 7. At the end of twenty-eight days or more from the last payment made to the wife who so died as aforesaid, or from the date of the original declaration and order, in case she has received no payment thereon, the person so appointed may apply to such public officer to whom the same is addressed, for payment of what may be due thereon, and shall then produce the original declaration and order, and the certificate of the minister and churchwarden, and attestation by the justices, and allowance by three commissioners as aforesaid; and shall also deliver a certificate from the minister and churchwardens, specifying that there is a child, or the number of children under fourteen then living in their parish, distinguishing how many are boys, and their ages, as near as they can, and shall, in all things, proceed in the same manner as before directed; and such payment shall be continued so long as all or any one of such children shall remain under fourteen, or the father shall live and continue in the king's service; except as hereinafter excepted, where no demand shall have been made within six months.

Persons appointed
to receive pay
for children, may
apply for the
same, producing
certain papers.

Sect. 8. And if any such seaman, landman, or marine, shall be promoted, he may increase the allowance out of his pay to his wife, children, or mother, to the amount allowed to his rank as aforesaid; and the same rules and regulations shall be observed as before is directed and prescribed.

Seamen, &c., on
promotion, may
increase their pay
to their families.

Sect. 9. And all such payments as aforesaid shall be by even monthly payments of twenty-eight days, and not for any part of a month, except in the event of the death of such wife, or death or discharge of the person serving, or his absenting himself, in which case the same shall be paid up to the day of such death or discharge, or his quitting the service.

Payments to be
made for twenty-
eight days at a
time, except in
case of death, &c.

Sect. 10. Every such order so granted shall be irrevocable, and shall continue and remain in force during the whole time such person shall be entitled to wages, unless the same shall be revoked, or become void in manner hereinafter mentioned.

Orders to be ir-
revocable, except
in certain cases.

PAY TO MAINTAIN FAMILIES.

35 Geo. 3, c. 28. Wives, &c., to appear personally, unless disabled.

Where the wife or mother returns to her place of residence.

Sect. 11. The wife or mother, or person appointed to receive such pay, shall appear personally to receive the same, unless disabled by bodily infirmity, the same to be certified by the minister and churchwarden where such person resides, or by the physician, surgeon, or apothecary, attending her or him, in which case, the same shall be paid to her or his order in writing, upon producing the original order.

By the 46 Geo. III. c. 127, s. 3, in every case in which any petty officer, seaman, or landman, non-commissioned officer of marines, or marine, to whom any allotment shall have been made payable, at or near the port where the ship or vessel to which he shall belong may have been at the time of making such allotment, shall return to her friends, or to the parish or place to which he shall belong, it shall be lawful for the commissioners of the navy, on receiving a certificate from the minister and churchwardens of the parish or place to which she shall remove of her actual residence, there to alter the place of payment of her allotment accordingly.

Wife dying, order void, if no demand in six months.

By the 35 Geo. III. c. 28, s. 12, where no demand shall be made by virtue of any such original order for six calendar months after the date when signed by the commissioners of the navy, in the event of the death of the wife, the same shall be void.

Regulating officers, &c., neglecting to transmit lists.

Sect. 13. If any such regulating officer, or commander of any such vessel, shall unnecessarily neglect or delay to transmit to the navy-board such lists as aforesaid, or to transmit such declarations and orders as aforesaid, he shall forfeit 50*l.*, to be recovered as penalties against the laws of customs or excise, and to be paid to the person suing or prosecuting for the same.

Persons to whom orders are addressed, not having money in hand.

Sect. 14. If the person to whom any such order shall be addressed shall not have public money in his hands sufficient to answer the same, and shall refuse payment, he shall deliver a note of the cause of his refusal or delay, which shall bear date when such demand was made and refused, and shall appoint thereon some future day, within fourteen days, for the payment thereof. And if on complaint made to the said commissioners there shall appear any unnecessary delay in the payment of such allowance as aforesaid, or that any person employed herein hath taken any fee or reward, three commissioners may fine any such offender not exceeding 50*l.*, to be recovered and applied in manner aforesaid.

Delaying payment or taking fees.

Over-payments to be made good by defaulters.

Sect. 15. If by any neglect or delay in making any such returns as aforesaid, any over-payment shall be made to any such wife, mother, or children, the same shall be deducted from the salary or pay of the officer or person making such default, and shall be applied in replacing the sum so overpaid.

Orders for payment to wives may be revoked on certificates from ministers, &c.

Sect. 16. If any person who shall have allotted a part of his wages as aforesaid, shall be desirous to revoke the same, he may do so, upon his declaring such his intention, and actually revoking the same by a writing under his hand, addressed to the commissioners of the navy, accompanied with a certificate from the minister and churchwarden of the parish where his wife shall reside, declaring that, in their opinion, such person has just and reasonable cause for such revocation; and if such commissioners shall be satisfied thereof, they shall give notice to the treasurer of the navy, or other public officer, to whom the order of payment was addressed, directing him to stop all future payment thereon, until such person shall make another order of payment in manner aforesaid.

Revoking allotments by seamen, &c.

By the 46 Geo. III. c. 127, s. 4, if any petty officer, &c. who shall have made any allotment of pay under the 35 Geo. III. c. 28, or who shall hereafter make any allotment, shall be desirous of revoking such, and shall signify his intention to his commanding officer, and his reasons for so doing, such officer shall, as soon as the same can conveniently be done, communicate such intention, and the reasons given for the same, to the commissioners of the navy, and if they shall be satisfied therewith, they may stop all future payments on any such allotment so revoked: and in every case in which it shall be represented to the commissioners by the minister and churchwardens of the parish or place where any woman, receiving any such allotment under the 35 Geo. III. c. 28, or this act, shall reside, and whose husband shall be then serving abroad, that

she has conducted herself in such a manner as to be undeserving of support from her husband, they may withhold any further payment on any such allotment.

PAY TO MAINTAIN FAMILIES.

35 Geo. 3, c. 28.

And by s. 7 the commissioners may direct the treasurer of the navy, &c. &c. by whom any allotment made conformable to the said former act or to this, shall be payable, from time to time, and as often as the pay of any such petty officer, &c. shall have been increased by any order of his majesty in council, to increase the allowance in the payments which he may thereafter make to the wife or mother of any such petty officer, &c. to a proportion equal in the whole to one-half of the pay of every such petty officer, &c. at the respective times of the making of such payments, and in the same manner as if such declaration and order of allotment had been originally made according to the rate of half the pay of every such petty officer, &c. at the respective times of such payments.

By the 35 Geo. III. c. 28, s. 17, if any such wife as aforesaid shall desert or otherwise neglect and leave unsupported and maintained † any such child under fourteen, and who shall for one month become chargeable to any parish, the minister and churchwarden of such parish may certify the fact to the commissioners of the navy, and also their intention to appoint a proper person to receive, and apply to the use of such child, the pay so allowed for the support of her and such child; and if such commissioners be satisfied therewith, they shall proceed to appoint a proper person to receive such pay in the same manner as if such wife had died.

If wives desert their children, on a certificate from the minister, &c., other persons may be appointed.
† Sic.

Sect. 18. And as soon as it shall appear to the commissioners of the navy that any person who has allotted a part of his pay as aforesaid is dead, or has absented himself, or has quitted the king's service, they shall communicate the same to such public officer as aforesaid, by whom such allotment of wages was directed to be paid, directing him to stop all future payments; and such public officer shall, within two days after the receipt thereof, acknowledge such receipt by letter to the said commissioners, on the penalty of 20*l.*, to be levied as aforesaid.

Navy board to communicate the death of persons who have allotted part of their pay to the person directed to pay it, on penalty of 20*l.*

Sect. 19. As soon as it shall come to the knowledge of the minister or any churchwarden of any parish that the wife or mother of any person receiving such allowance as aforesaid is dead, they or one of them shall immediately give notice thereof by letter to the commissioners of the navy, or other public officer from whom she received such allowance, who shall not make any further payment until he receive further directions from the commissioners of the navy thereon.

Minister, &c., to give notice of the death of wives or mothers receiving pay to the navy-board.

Sect. 25. And all allotments of wages to be paid in pursuance of this act shall be fully paid, without deduction, although a part thereof be in fractions of the smallest denomination; and every person withholding any part thereof under any pretence whatsoever, shall forfeit 20*l.*, to be recovered and applied in the manner aforesaid.

Payments to be made without deduction, on penalty of 20*l.*

Sects. 26 & 27. All letters or packets sent by the cashier of the navy, or forwarded by him in the execution of this act, shall be under covers, with the words, "Pursuant to Act of Parliament, Thirty-fifth George the Third," printed thereon, and he shall write his name under the same. And if he shall send under any such cover any writing, paper, or parcel, other than those relating to the execution of this act, he shall forfeit 100*l.*, to be recovered and applied in manner aforesaid. See further *Post-Office*, ante, p. 210 to 213.

Letters to be free of postage.

Penalty of sending other things under such covers.

Sect. 30. And if any person shall falsely make, forge, or counterfeit, or procure, &c. or willingly assist in, &c. any such declaration or order, or any certificate or receipt hereinbefore described or mentioned, or utter or publish as true any such forged declaration, &c., in order to enable any person to obtain any such wages so allotted as aforesaid, he shall be guilty of felony without benefit of clergy. [See now the 1 Wil. 4, c. 66, which abolishes the punishment of death in this case, *Forgery*. Vol. II.]

Forging orders for payment, &c.

VII. Pensions, &c. to Sailors.

[49 Geo. III. c. 45; 7 & 8 Geo. IV. c. 8; 10 Geo. IV. c. 14.]

10 Geo. 4, c. 14. By the 10 Geo. IV. c. 14, after reciting that, "whereas by an act passed in the sixth year of the reign of his Majesty King George the Second, being an act for enabling his majesty to apply 500,000*l.* out of the sinking fund for the service of the year 1733, and for other purposes therein mentioned, it is (amongst other things) enacted, that from and after the 24th day of June, 1733, there should be allowed upon the books of every ship of war in sea pay a man in every hundred men that the complement of such ship should consist of, and that the produce of the wages of each such seaman, and the value of his victuals, should be given and applied to the relief of the poor widows of commissioned and warrant officers of the royal navy, according to such rules, orders, and regulations as his majesty had established or should establish and appoint for that purpose; which allowance, by another act passed in the twenty-fourth year of the reign of his said late majesty, for granting to his majesty the sum of 600,000*l.* out of the sinking fund for the service of the year 1751, and for allowances to the poor widows of commission and warrant officers of the royal navy, and for other purposes therein mentioned, was increased and extended to one other seaman in every one hundred men of the complement, for such time only as the number of men employed in the service of the royal navy should not exceed twenty thousand; and by another act passed in the sixteenth year of the reign of his late Majesty King George the Third, for (amongst other things) giving further relief to the commission and warrant officers of the royal navy, the said allowances were continued till the number employed in the royal navy should exceed thirty thousand: and whereas, by another act passed in the forty-ninth year of the reign of his late Majesty King George the Third, intituled, 'An Act for the more convenient Payment of Pensions to Widows of Officers of the Navy,' various regulations and provisions are enacted and established for the more convenient payment of the said pensions, under the order and direction of the court of assistants of the before-mentioned charity: and whereas his majesty has deemed it necessary that an alteration should be made in the constitution of the said charity; and it is therefore expedient that the said enactments, regulations, and provisions, should be repealed, and other provisions established in lieu thereof;" it is enacted, "that from and after the 31st day of December (1829), after the passing of this act, so much of the said act of the sixth and twenty-fourth years of the reign of King George the Second, and of the sixteenth year of the reign of King George the Third, as are hereinbefore recited, and also the said act of the forty-ninth year of his late majesty King George the Third, relating to the pensions of widows of officers of the royal navy, be and the same are hereby declared to be repealed."

From and after 31st Dec. (1829), so much of recited acts as relates to widows' pensions shall be repealed.

Pensions, &c. to widows to be paid, subject to the same regulations as heretofore.

Sect. 2. "That from and after the said thirty-first day of December next, all pensions to which the widows of officers of the royal navy shall or may be entitled, under any commission, warrant, or order of his majesty, already existing, or hereafter to be made, shall be paid by the same persons and in the same manner as any wages, pay, or other allowances for services in the royal navy, are now payable, and may be remitted to the party entitled thereto in the same manner, and be payable by the same persons and under the same regulations, as by an act passed in the fifty-fifth year of the reign of his late majesty King George the Third, intituled 'An Act to repeal several Acts relating to the Execution of Letters of Attorney and Wills of Petty Officers, Seamen, and Marines, of His Majesty's Navy, and to make New Provisions respecting the same,' are provided in respect to the payment of the wages, pay, and other allowances for services in the royal navy, to the executors or administrators of any deceased petty officer or seaman; and that all the enactments, regulations, clauses, provisos, and penalties, specified and contained in the said last-mentioned act with respect to remittance-bills under the same act, shall from thenceforth extend and be applicable to remittance-bills to be made out for payment

55 Geo. 3, c. 60.

of such widows' pensions pursuant to this act, and to the persons respectively by whom the same shall be made payable."

Sect. 3. "That all assignments, bargains, sales, orders, contracts, and agreements whatsoever to be made of or in relation to any pension or part of a pension, or for the assignment thereof by any widow entitled thereto, shall be null and void to all intents and purposes."

Sect. 4. "That all orders, certificates, vouchers, bills, and receipts for or relating to any such pensions, shall be free and exempt from all duties of stamps whatever."

Sect. 5. "That from and after the said 31st day of December next, if any person shall personate or falsely assume the name or character, or procure any other person falsely to assume the name or character, of any widow entitled or supposed to be entitled to any such pension as aforesaid, in order to receive any such pension or any part thereof, or if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly act or assist in the false making, forging, or counterfeiting, any remittance-bill, certificate, voucher, or receipt for money, in relation to any such pension or the payment thereof, or any part thereof, or any affidavit, certificate, voucher, or other document, in order to obtain any such pension, or shall utter or publish as true any such forged or counterfeited remittance-bill, certificate, affidavit, voucher, or other document, with intent to defraud any person whatsoever, knowing the same to be false, forged, or counterfeited, every such person in any of the said cases offending shall be deemed guilty of felony, and the court before which any such person shall be convicted, shall be empowered to adjudge the offender to be transported for any period not exceeding fourteen years."

Sect. 6. "That if any person shall utter or produce any false affidavit, certificate, voucher, or other document, in order fraudulently to procure any person to be admitted to be a pensioner as the widow of any officer of the royal navy, every such person so offending shall be deemed guilty of a misdemeanor, and shall be subject to be fined and imprisoned, and kept to hard labour, in the discretion of the court before which such offender shall be convicted."

By the 49 Geo. III. c. 45, certain provisions are also enacted for the payment of allowances in the compassionate list of the navy, and also of officers of the royal marines on half-pay; and by sect. 10, 11, the same punishment of transportation for personating or procuring to be personated the name, &c., of persons entitled, or supposed to be entitled, to such allowance, or of any such officer on half-pay, in order to receive such allowance or half-pay as is above enacted in the 49 Geo. III. c. 35, s. 9; and also as to forging and counterfeiting the name or handwriting of such person or officer, or of any person required by this act to sign any remittance-bill, &c. &c., as by the 49 Geo. III. c. 35, s. 10.

See the 59 Geo. III. c. 36, *ante*, 329.

[For the law relating to the recovery of such wages, so far as provision is made for the same by any act of Parliament, and as far as justices of peace are concerned, see title *Servants, post*.]

The 7 & 8 Geo. IV. c. 8, extends the powers of the 49 Geo. III. c. 45, as to half-pay of royal marine officers to the pensions of the widows of such officers.

PENSIONS TO WIDOWS.

10 Geo. 4, c. 14.

Assignments of pensions to be void.

Orders, &c. to be free from duty.

Penalty for personating any widow entitled to pension.

Producing false affidavits or certificates.

Payment of allowances on the compassionate list of the navy, and to half-pay officers of the marines.

VIII. *Payment of Wages by Remittance-Bills, &c.*

[1 & 2 Geo. IV. c. 49.]

The 1 & 2 Geo. IV. c. 49, after reciting the 31 Geo. II. c. 10, 32 Geo. III. c. 33, and 32 Geo. III. c. 67, enacts, that petty officers and seamen, non-commissioned officers of marines, and marines, shall and may be enabled and empowered to obtain payment of their wages by remittance-bill or bills to themselves or to their wives or relations, as provided by the said acts, whether they, such petty officers and seamen, non-commissioned officers of marines, and marines, be still serving his majesty, or discharged or paid off from the service; which remittance-bills shall be in the form therein given, or to the like effect.

Petty officers and seamen, &c., may obtain payment of their wages by remittance-bills, whether serving or paid off.

WAGES BY
REMITTANCE-
BILLS.

Provisions of
55 Geo. 3, c. 60,
applicable to re-
mittance-bills,
extended to this
act.

Act. 2 enacts, that the provisions, regulations, penalties, and forfeitures contained in the 55 Geo. III. c. 60, *infra*, applicable to remittance-bills shall be applicable to the remittance-bills authorized by this act.

Act. 3, 4, relate to the offences of falsely assuming names, &c., and forgery, which see, *ante*, 331.

IX. Letters of Attorney, Wills, &c.

[55 Geo. III. c. 60; 59 Geo. III. c. 59; 1 & 2 Geo. IV. c. 49.]

55 Geo. 3, c. 60.

The statute 55 Geo. III. c. 60, repeals the acts relating to the execution of letters of attorney and wills of petty officers, seamen, and marines, and makes new provisions.

Act. 2 points out the mode of executing letters of attorney and wills of seamen, &c.

Act. 3. Letters of attorney, &c., executed in foreign prisons are made valid, if attested as therein mentioned.

Act. 4. A seaman's will is not to be in same instrument with letter of attorney.

Act. 5. Wills, &c., are to be entered on muster-book.

Act. 6. Letters of attorney and wills are to be examined by inspector, and approved, if found authentic.

Act. 7. No letter of attorney is to be passed by inspector until certificate in prescribed form be produced.

Act. 8. "That where any petty officer or seaman, non-commissioned officer of marines, or marine, who shall have belonged to any ship or vessel of his majesty, his heirs, or successors, has died, or shall hereafter die, having left a will or testament appointing any executor or executors therein, no pay, wages, prize-money, bounty-money, or other allowance of money, which may have been due or owing to such testator at the time of his death, shall be paid over to or recovered by such executor or executors, except upon the probate of such will, to be obtained in the following manner, *videlicet*: after such will shall have been so transmitted, registered, inspected, and approved, as hereinbefore directed, the inspector of seamen's wills and powers of attorney shall issue or cause to be issued, to the person named and described as executor or executrix of such will, a check in lieu thereof, containing directions to return the same, upon the testator's death, to the treasurer or paymaster of his majesty's navy; which check shall be in the words and figures, or to the purport or effect following; that is to say,

"No.

CHECK.

"Navy-Pay Office, 18 .

"It being directed by act of Parliament, 55 Geo. III. c. 60, that wills granted by petty officers and seamen, non-commissioned officers of marines, and marines, belonging to his majesty's navy, shall be lodged in this office for the purposes therein specified; and that a check shall be issued for every such will, mentioning the particular heads thereof, which, by virtue of the said act, shall stand in the place of the same, this is therefore issued to show the receipt at this office of a will dated at [or, on board of], upon the day of, made and executed by A. B., now or formerly of his majesty's ship, in favour of C. D., and appointing E. F. executor [or, executrix], and which is attested by G. H. and J. K. The said E. F., upon the testator's death, is entitled, upon production of this check, to demand of this office that the said will may be directed and sent to a proctor in Doctors' Commons, to obtain a probate thereof, which probate is also to be lodged in this office. I, now apply for a certificate, to enable me to obtain probate of the above-mentioned will, being the executor [or, executrix] therein named. My place of abode is at

"Signed E. F."

"We hereby certify, that we personally know the above subscribing E. F., the present holder of this check, who is an inhabitant of this parish; and that we believe him [or, her] to be the person described as executor [or, executrix] therein.

"L. M.

"N. O.

"Both housekeepers of the parish of
in the county of ."

Executors to obtain probate of wills in manner herein mentioned.

"I hereby certify, that I have examined the above-named E. F., the executor [or, executrix], and also the above-named L. M. and N. O. (inhabitant householders in this parish), as to their knowledge of the said E. F., and of his [or, her] being the executor [or, executrix] of the will of the above-named A. B., as he [or, she] represents himself [or, herself] to be; and that I am satisfied with their answers, and have seen the said E. F. sign the said petition or application, and the said L. M. and N. O. sign the said certificate in my presence.

"The said E. F., the executor [or, executrix], is feet inches high,
complexion, eyes, hair, age,
particular marks.

"At day of } P. Q., Minister."

"N. B. If the testator shall die after he leaves the naval service, a certificate of his burial, or some other authentic proof of his death, must likewise be sent to this office.

"If the executor [or, executrix] knows any proctor in Doctors' Commons, he [or, she] is desired to mention his name, that he may be employed in obtaining the probate.

"The above application and certificates are to be filled up and signed upon the testator's death, and the check to be sent by the general post, under cover, directed to the treasurer or to the paymaster of his majesty's navy, London."

And in the event of the testator's death, the minister, officiating minister, or curate of the parish in which the said executor or executrix may then reside, shall, upon being applied to for his signature to the certificate at the foot of the said check, examine such executor or executrix, and such two inhabitant householders of the parish, as may be disposed to sign the first certificate on the said check, touching the claim of the said executor or executrix; and being satisfied of his or her being the person described as executor or executrix in the said check, the said executor or executrix shall subscribe the application subjoined to the said check (the blank therein being first filled up agreeably to the truth), in the presence of the said minister, officiating minister, or curate; and the said two inhabitant householders shall subscribe the said first certificate on the said check (the blanks therein being first filled up agreeably to the truth) in the like presence; for which respective purposes the said executor or executrix, and the said householders, shall attend at such time and place, times and places, as the said minister, officiating minister, or curate shall appoint; and the said minister, officiating minister, or curate shall sign the second certificate on the said check (the blanks therein, and in the description thereunto subjoined, being first filled up agreeably to the truth); and the said executor or executrix shall, before his or her examination, or his or her signing the said application, pay to the said minister, officiating minister, or curate, a fee of 2s. 6d. for his trouble on the occasion; and the said application and certificates, being in all things completed according to the directions therein and hereby given, the same shall be transmitted by the said minister, officiating minister, or curate, by the general post, addressed to the treasurer or to the paymaster of the navy, London; and the said original will having been passed and stamped in the manner directed by this act, the inspector of seamen's wills, or his assistant, shall note thereon the amount of the wages due to the deceased, as calculated on the search sent to the inspector from the Navy Office, and shall forward such will to a proctor from Doctors' Commons, in order to his obtaining probate thereof: and in case the executor or executrix shall not reside within the bills of mortality, the said inspector shall also forward to such proctor a letter addressed to the said minister, in the form or to the effect following; that is to say,

"No.

Navy-Pay Office,

18

"Reverend Sir,

"I am directed by act of Parliament, 55 Geo. III. c. , to forward to you the inclosed commission [or, requisition], for the purpose of swearing E. F., therein named as executor [or, executrix] of the will of A. B., late a seaman [or, marine] in his majesty's navy, deceased; which commission [or, requisition], when executed, you will be pleased to return, addressed as follows: 'To the Treasurer [or, 'To the Paymaster'] of his Majesty's Navy, London,' specifying and describing the Receiver-General of the Land Tax, the Collector of the Customs or of the Excise, or Clerk of the Check, whose

LETTERS OF
ATTORNEY,
WILLS, &c.

55 Geo. 3, c. 60.

abode is nearest to the exscutor [or, executrix], and who will be directed to pay him [or, her] the wages due to the deceased.

"The copy of the will may be delivered to the executor [or, executrix]."

"I am, Reverend Sir,

"Your most obedient servant,

"J. P., Inspector.

*"To P. Q., Minister of the parish
of _____, in the
county of _____."*

Duty of proctor. And such proctor having received the said will, and the said letter so written by the inspector (in case such letter shall be necessary), shall immediately sue out the previous commission or requisition, or take such other proper and legal steps as may be necessary towards enabling the said executor or executrix, so applying for probate of the said will, to obtain the same; and shall inclose in the said letter such previous commission or requisition, or other legal or necessary instrument, with instructions for executing the same, and also a copy of the said will; and the said letter and inclosures shall be forwarded to the said minister by the general post, agreeably to the address put thereon by the inspector of seamen's wills as aforesaid."

Duty of ministers. Sect. 9. Points out the duty of ministers on receiving commissions, and requires them to procure the execution, and transmit them to the Pay Office. And the residence of the nearest receiver-general of the land-tax, &c., is to be specified, &c., in order that probate may be obtained.

Wages of persons
dying intestate to
be paid only
upon administra-
tion obtained in
the manner
herein mentio-
ned.

Sect. 10 enacts, that when any petty officer or seaman, &c., shall die intestate, leaving any wages, pay, prize-money, &c., due to him, the same shall not be paid unto any representatives but upon letters of administration to be obtained in the following manner, viz. the person claiming administration shall send a letter to the inspector, stating his place of abode, and the parish in which situate, the name of the deceased, the name of the ship to which he belonged, that he has been informed of his death, and requesting the inspector to give directions to enable him to procure letters of administration; upon receipt whereof the inspector shall send by post under cover to the minister, &c., of the parish wherein the claimant shall reside, a petition in the words and figures therein prescribed, or to the like effect. And the said inspector shall at the same time send to such minister, &c., a letter, acquainting him with the nature of the claim, and the steps to be taken thereon; and also to the claimant, advising him of the forwarding of the said petition, and directing him to take such steps as are hereinafter directed, for substantiating his claim; and upon receipt of the said petition, &c., the said minister, &c., shall examine the claimant, and also such two inhabitant householders, touching the right of such claimant to administration, according to the degree of relationship stated in such petition; and being satisfied of such right, the person claiming such administration shall fill up the several blanks in the said paper, and transmit it (as before) to London.

Minister not sa-
tisfied with claim,
and rejecting the
petition.

Sect. 11. If the minister, &c., shall reject the said petition or paper, for want of proof to his satisfaction that the claimant is the person entitled to administration, he shall state his reasons for such rejection, and return the same to the treasurer of the navy.

Other regulations.

Sect. 12 requires ministers, &c., on receiving commissions, to procure the executions and transmit them to the Pay Office. The residence of the nearest receiver-general of the land-tax, &c., is to be specified by the person applying for the administration if he reside at a distance, &c. Upon this, administration may be obtained.

Sect. 13. The treasurer or paymaster of navy is to direct the inspector to issue check, &c.

Sect. 14. Proctors are not to deliver letter of administration with will annexed but to treasurer or paymaster of navy.

Sect. 15 provides as to expense of suing out probate, &c.

Sect. 16 provides against proctors, &c., taking more than allowed.

Sect. 17. The treasurer or paymaster to allow reasonable charge.

Sect. 18. Sums not exceeding 20*l.* due for services to executors, &c., of deceased seamen, are to be paid by the deputy paymaster of the navy, &c., on the

production of a certificate to be obtained from the inspector of seamen's wills, &c., as therein mentioned.

By the 59 Geo. III. c. 59, this provision of 55 Geo. III. c. 60, s. 18, is extended to cases where a bastard shall die intestate.

LETTERS OF
ATTORNEY,
WILLS, &c.
59 Geo. 3, c. 60.

Sect. 19 of 55 Geo. 3, c. 50, relates to perjury, &c.

Sect. 55 of the same statute enacts, "that, from and after the passing of this act, it shall and may be lawful to and for the treasurer and commissioners of the navy for the time being, or any one or more of them, and they and he is and are hereby respectively authorized and empowered from time to time in all places whatever, to do, perform, exercise, and execute the office and duty of a justice or justices of the peace, to all intents and purposes whatsoever, in causing any person or persons who shall at any time or times, from and after the passing of this act, be charged with any of the offences mentioned in this act, to be apprehended, committed, and prosecuted for the same; and all constables, headboroughs, keepers of gaols and prisons, and all other officers whatever, shall, and they are hereby respectively required from time to time diligently to execute, perform, and obey all such warrant and warrants as shall be made, directed, issued, or given to them, or any of them, by any one or more of the persons aforesaid, touching any of the matters and things hereinbefore contained; and all and every the laws and statutes of this realm, made and now in force for the ease, safety, and protection of justices of the peace in the execution of their office, shall extend and be construed to extend to the treasurer and commissioners of his majesty's navy, acting in the execution of this act, and to all constables and headboroughs, or other peace officers, or persons acting under the warrant or authority of the said treasurer or commissioners, or any of them, as fully and effectually to all intents and purposes as if the same were herein and hereby repeated and re-enacted, as to and for the ease, safety, and protection of the said treasurer and commissioners, and the constables, headboroughs, or other peace officers or persons acting under their or any of their warrant or authority."

Treasurer and
commissioners to
act as justices.

As to the offence of False Personating, &c., to obtain pensions, &c., see, *ante*, p. 329 to 332. False personating, &c.

X. Forcing Seamen ashore, or leaving them abroad.

The 9 Geo. IV. c. 31, s. 30, enacts, "that if any master of a merchant vessel shall, during his being abroad, force any man on shore, or wilfully leave him behind in any of his majesty's colonies or elsewhere, or shall refuse to bring home with him again all such of the men whom he carried out with him, as are in a condition to return when he shall be ready to proceed on his homeward-bound voyage, every such master shall be guilty of a misdemeanor, and being lawfully convicted thereof, shall be imprisoned for such term as the court shall award; and all such offences may be prosecuted by indictment or by information, at the suit of his majesty's attorney-general, in the Court of King's Bench, and may be alleged in the indictment or information to have been committed at Westminster, in the county of Middlesex; and the said court is hereby authorized to issue one or more commissions, if necessary, for the examination of witnesses abroad: and the depositions taken under the same shall be received in evidence on the trial of every such indictment or information."

Forcing seamen
ashore, or leaving
them abroad.
9 Geo. 4, c. 31,
s. 30.

Mode of trial, &c.

The 9 Geo. IV. c. 31, repeals so much of the 11 and 12 Wil. III. c. 7, as relates to any master of a merchant vessel who shall force any man on shore, or wilfully leave him behind, or refuse to bring home any man as therein mentioned; and it also repeals so much of the 58 Geo. III. c. 38, as relates to the trial of offences against the act of King William the Third, hereinbefore mentioned.

Repeal of former
statutes.

See this offence and forms pointed out, *ante*, Assault, Vol. I. p. 284.

XI. Assaulting Seamen, &c. to prevent them Working.

Assault on any seaman, &c., to prevent him from working, punishable before two magistrates, with imprisonment not exceeding three months.

The 9 Geo. IV. c. 31, s. 26, enacts, "that if any person shall unlawfully and with force hinder any seaman, keelman, or caster from working at or exercising his lawful trade, business, or occupation, or shall beat, wound, or use any other violence to any person, with intent to deter or hinder him from" working at or exercising the same, "every such offender may be convicted thereof before two justices of the peace, and imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding three calendar months; provided always, that no person, who shall be punished for any such offence by virtue of this provision, shall be punished for the same offence by virtue of any other law whatsoever."

See this offence, and the forms and proceedings relative thereto, already considered, *ante*, *Assault*, Vol. I. p. 282.

XII. Assaulting Commanders to hinder them from Fighting.

See this offence considered, *Assault*, Vol. I. p. 282.

XIII. Forms.

(No. 1.)

Information of mariner in merchant service against his master, for refusing to pay wages on 20 Geo. 3, c. 58. (a)

County of } The information and complaint of A. I., late of , in
the county of , [mariner], exhibited before me, J. P.,
Esq., one of his majesty's justices of the peace in and for the county of
, and residing in and near [or, near] the place where one A. O. now is
[or state the justice's residence, as required by the act, ante, 334], the
day of , in the year of our Lord one thousand eight hundred and
Who, being sworn on his oath, says, that on the day of , in
the year of our Lord one thousand eight hundred and , he was hired by the
said A. O., of , in the county aforesaid, master [or, commander, see ante,
334] of a certain ship called the , to serve him in the merchant service
[or, coasting trade, as the case may be], as a seaman, [mariner, as the case may be],
and not as an apprentice or master, on board the said ship, from the port and place
of , in England, to the port of , beyond the seas [or, in Great
Britain], [or, for the term of , as the case may be], for the wages of
a month [as the case may be]; and that he, the said A. I., has duly performed
the said service and hiring for the term of [two months]; and that he, the said A. I.,
on the day of last, was discharged from the said hiring and ship by
the said A. O. [as the case may be, see ante, 334], at , in the said county
of ; and that, although [two days] from the time of the said [discharge]
hath elapsed, and although no agreement hath been made or entered into to the contrary
[as the case may be, see ante, 334], he, the said A. O., neglects and refuses to
pay him, the said A. I., the sum of , (b) being the wages justly due unto
him, the said A. I., for the said service, contrary to the form of the statute in such
case made and provided: and thereupon he, the said A. I., prays that justice may be
done, and that the said A. O. may be summoned before me, the justice aforesaid, to
answer unto the said complaint.

Before me, J. P.

A. I.

(No. 2.)

Summons thereon.

County of } To the Constable of , in the said county.

Whereas information and complaint have been made unto me, J. P., Esq., one of his majesty's justices of the peace in and for the said county of , upon the oath of A. I., late of , in the county of , [mariner], that, &c. [here set forth the complaint, as in the preceding form, No. 1.] These are therefore to command you forthwith to summon the said A. O. to appear before me, at , in the said county of , on the day of [this present] month of , at the

(a) See the enactment, *ante*, 334.

(b) The sum must not exceed 20l.; *ante*, 334.

hour of _____ in the forenoon of the same day, to show cause why the said wages should not be paid. And be you then there to certify what you shall have done in the premises. Given under my hand and seal, the _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

FORMS.

(No. 3.)

County of } Whereas information and complaint have been made unto me, J. P., Esq., Order for pay-
 } one of his majesty's justices of the peace in and for the said county of ment of the
 , and residing in and near [or near] the place where one A. O., wages.
 now is [or state the justice's residence, as required by the act, ante, 334], upon the
 oath of A. I., late of _____, in the county of _____, [mariner],
 that on the _____ day of _____, in the year of our Lord one thousand eight
 hundred and _____, he, the said A. I., was hired by A. O., of, &c. [here state the
 complaint, as directed in the form, ante, 350, No. 1, down to the words, "con-
 trary to the form of the statute," &c., inclusive, and then proceed as follows]:
 And whereas the said A. O. having appeared before me, in pursuance of my summons
 for that purpose, hath not proved to me that the said wages justly due unto the said
 A. I., as aforesaid, have been duly paid unto him, the said A. I., nor hath showed
 to me any just cause why the said wages should not be paid, and hath not paid
 the same [or, and whereas it appears to me, upon the oath of A. C., constable of
 _____, aforesaid, that he, the said A. C., by virtue of my summons
 to him directed, did duly summon the said A. O. to appear before me at a certain
 time and place therein specified, to show cause why the said wages should not be
 paid, and the said A. O. hath neglected to appear according to the said summons,
 and hath not showed any cause why the said wages should not be paid, and hath
 not paid the same]. I, therefore, having duly examined into the truth and matter
 of the said complaint, by the oaths of the said A. I., and of the witnesses produced
 by him and the said A. O. respectively [as the case may be], and, upon due
 consideration had thereof, do hereby adjudge, determine, and order, that he, the
 said A. O., upon due notice hereof, do pay, or cause to be paid, to him, the said A. I.,
 the sum of _____, (a) which appears to me to be just and reasonable, to be
 paid by him, the said A. O., to him, the said A. I., as and for his wages so due unto
 him, as aforesaid. Given under my hand and seal, the _____ day of _____, in
 the year of our Lord one thousand eight hundred and _____ J. P.

(No. 4.)

County of } To the constable of _____

Warrant of dis-
tress for non-pay-
ment. (b)

Whereas A. I., late of _____, in the county of _____, [mariner], has
 complained unto me, J. P., Esq., one of his majesty's justices of the peace in and for
 the county of _____, and residing, &c. [as in preceding forms], that on the
 _____ day of _____, in the year of our Lord one thousand eight hundred and
 _____, he was hired by A. O., of, &c. [here state the complaint, as directed in
 the form, ante, 350, No. 1, down to the words, "contrary to the form of the sta-
 tute," &c., inclusive, and then proceed as follows]: And whereas the said A. O.
 having appeared before me, in pursuance of my summons for that purpose, has not
 proved to me that the wages, justly due unto the said A. I. as aforesaid, have been
 paid to him, the said A. I., nor has showed any just cause why the same should
 not be paid, and has not paid the same: [or, and whereas the said A. O. has
 been duly summoned by me to show cause why the said wages should not be paid;
 but he, the said A. O., has neglected to appear according to the said summons,
 and has not showed any cause why the said wages should not be paid, and has
 not paid the same.] I, therefore, the said justice, upon due examination and con-
 sideration had thereof, on the _____ day of _____, now last past, by
 writing under my hand and seal, did thereupon adjudge, determine, and order, that
 he, the said A. O., upon due notice thereof, should pay, or cause to be paid to him, the
 said A. I., the sum of _____, which appeared to me to be just and reasonable
 to be paid by him, the said A. O., to him, the said A. I., as and for his wages so due
 unto him, as aforesaid; and whereas it appears to me that the said A. O., on the said

(a) Not exceeding 20l., ante, 334. (b) This must not be issued till two
 A separate order for costs should be days after making the order for pay-
 made. As to orders of justices in ge- ment of wages. See ante, 334.
 neral, see Order, Vol. III.

FORMS.

day of , now last past, had due notice of my said order, and that due demand of the said sum of was then made of him, the said A. O., by him, the said A. I., at , in the said county of , in which port the said ship now lies; but that he, the said A. O., did not then pay nor has yet paid the same nor any part thereof: these are, therefore, to command you to make distress of the goods and chattels of the said A. O., or other person having or taking the charge or command of the said ship or vessel called the ; and if within days next after such distress by you made, the said sum of , together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels, so by you distrained, and out of the money arising by the sale thereof, that you pay the said sum of unto him, the said A. I., rendering the overplus [if any there be] after deducting all the costs (a), charges, and expenses of any summonses, informations, complaints, hearings, warrants, and of such distress, and the keeping, appraisement, or sale thereof, or otherwise relating thereto, unto the person or persons whose goods and chattels shall be so distrained and sold. And in case sufficient distress shall not be found for payment and satisfaction of wages so ordered to be paid, and the same, with such costs, charges, and expenses as aforesaid, shall not be paid, that then you do certify the same to me, together with the return of this warrant. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and J. P.

(No. 5.)

Warrant of distress for the same, on the ship, &c., in case other sufficient distress be not found, &c. (a.)

County of } To the constable of

Whereas A. I., late of , in the county of , mariner, has complained unto me, J. P., Esq., one of his majesty's justices of the peace in and for the county of , and residing, &c. [as in form, No. 1], that on the day of , in the year of our Lord one thousand eight hundred and , he was hired by A. O., of, &c. [here state the complaint, as directed in the form, ante, 350, No. 1, down to the words "contrary to the form of the statute," &c., inclusive, and then proceed as follows]: And whereas the said A. O. having appeared before me, in pursuance of my summons for that purpose, has not proved to me that the wages justly due unto the said A. I. as aforesaid, have been paid to him, the said A. I., nor has showed any just cause why the same should not be paid, and has not paid the same; [or, and whereas the said A. O. has been duly summoned by me to show cause why the said wages should not be paid; but he, the said A. O., has neglected to appear according to the said summons, and has not showed any cause why the said wages should not be paid, and has not paid the same]; I, the said justice, therefore, upon due examination and consideration had thereof, on the day of , now last past, by writing under my hand and seal, did thereupon adjudge, determine, and order, that he, the said A. O., upon due notice thereof, should pay, or cause to be paid to him, the said A. I., the sum of , which appeared to me to be just and reasonable to be paid by him, the said A. O., to him, the said A. I., being the wages so due unto him, as aforesaid. And whereas it appears to me that the said A. O., on the said day of , now last past, had due notice of the said order, and that due demand of the said sum of was then made of him, the said A. O., by the said A. I., at , in the said county of ; but that he, the said A. O., did not then pay, nor has yet paid, the same, nor any part thereof. And whereas, on the day of , I, the said justice, did issue my warrant to the constable of , to make distress of the goods and chattels of the said A. O., or other person having or taking the charge or command of the said ship or vessel called the , and to levy the said sum of , and to pay the same according to the directions of the statute. And whereas it duly appears unto me, the said justice, as well upon the oath of the said constable of as otherwise, that he, the said constable of , has used his best endeavours to levy the said sum of on the goods and chattels of the said A. O., as aforesaid, and other persons having or taking the charge or command of the said ship or vessel called the , but that no sufficient distress can be so found whereon to levy the same. These are therefore to command you to levy the amount of the wages so ordered to be paid, together with the costs, charges, and expenses of the summonses, informations, complaints, hearings, and warrants of distress,

(a) A separate order for costs should be made by the magistrate. See *Costs*, Vol. I.

respecting the same, on the said ship or vessel, for the service on board which such wages have been and are so ordered to be paid, or on any of the tackle, furniture, or apparel thereof; and if, within the space of _____ days next after such distress by you made, the said sum for wages so ordered to be paid, and the said costs, charges, and expenses, as aforesaid, together with the reasonable charges of taking the said distress, shall not be paid, then you do sell the said ship, tackle, furniture, or apparel thereof, so by you distrained; and, out of the money arising by such sale, that you pay the said amount of the wages so ordered to be paid, together with the costs, charges, and expenses of the summonses, informations, complaints, hearings, and warrants of distress, respecting the same, unto him, the said A. I., rendering the overplus thereof (if any), upon demand, unto the master, or commander, or owner thereof, the reasonable charges of taking, keeping, and selling the said distress, being thereout first deducted. Given under my hand and seal, the _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

(No. 6.)

_____ } To _____, Esq., of _____, in the said county, a justice of the
to wit. } peace acting in and for the said county.

This is to give you notice, that I, E. F., of, &c. [master], &c. [see ante, 335, as to who may appeal], do intend, at the high Court of Admiralty, within seven days after the making of the order hereafter mentioned, to appeal against a certain order and decision made by you on the _____ instant, and bearing date that day and year, touching certain seaman's wages claimed to be due and owing from me, E. F., to one A. B., of, &c. [seaman]: I being dissatisfied with such order and decision; and the causes and grounds of such my dissatisfaction are, that, &c. [here set forth the grounds of appeal shortly; but, if any difficulty arises in so doing, it should seem the grounds may be omitted altogether]. Of all which premises you are hereby desired to take notice. Dated, &c.

Witness, G. H.

E. F.

(No. 7.)

[Commence and conclude the information or conviction as usual, see forms, Conviction, Vol. I. State the offence thus:] That C. D., late of _____, [mariner], on, &c., at, &c., being then and there [master and commander] of a certain vessel called _____, then bound on a certain voyage, to wit, from _____

_____ in England, to certain parts beyond seas, to wit, to _____, did hire and carry A. B., as a [seaman and mariner]. (and not the apprentice of the said C. D.) on the said voyage, to sea, from the port of _____ there, where the said A. B. was then entered and shipped, in order to proceed on the said voyage to the said parts beyond seas, to wit, to _____ aforesaid; he, the said C. D., not having first come to any agreement or contract with the said A. B. for or in respect of the wages of the said A. B. for the said voyage, in writing, declaring what wages the said A. B. was to have during the whole voyage [or, for so long time as he or they should ship themselves for, see the act, ante, 333], or expressing in such agreement or contract the voyage for which the said A. B. was shipped to perform the same, or any other agreement or contract, in manner and form as by the statute in that behalf is directed, contrary to the form of the statute in such case made and provided. Whereby, &c.

Notice of appeal to the Court of Admiralty against the order. (b)

Information or conviction on 2 Geo. 2, c. 26, s. 1, and 31 Geo. 3, c. 39, against a master for not having a written contract as to wages, &c. (c)

Search-Warrant.

[7 & 8 Geo. IV. c. 29, s. 63.]

THE 7 & 8 Geo. IV. c. 29, (the Larceny Consolidation Act,) s. 63, enacts, "that if any credible witness shall prove, upon oath before a justice of the peace, a reasonable cause to suspect that any person has in his possession, or on his premises, any property whatsoever, on or with respect to which any such offence (a) shall have been committed, the justice may grant a warrant to search for such property, as in the case of stolen goods; and any person, to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or

Search-warrants, 7 & 8 Geo. 4, c. 29.

(a) That is, any offence punishable by indictment under the act, for which see *Larceny*, Vol. III. (b) See, ante, 335. (c) See the act, ante.

SEARCH-WARRANT.

with respect to such property, is hereby authorized, and, if in his power, is required to apprehend and forthwith to carry before a justice of the peace the party offering the same, together with such property, to be dealt with according to law."

As to felonies, this new enactment makes no alteration in the law; but as to *misdemeanors*, it much extends the authority of the magistrate.

Other statutes.

There are other statutes relative to coining, having in possession naval and military stores, and to the taking of idle and disorderly persons, in order to recruit the land forces and marines, containing powers to issue search-warrants; and under the Vagrant Act, 5 Geo. IV. c. 83, s. 8, a justice may order the trunks, bundles, &c. of vagrants to be inspected; and by sect. 13, he may grant his warrant to search lodging-houses, &c. suspected to conceal vagrants. See the respective titles.

Apprehension of offenders.

As to the apprehension of the offenders themselves, see *Arrest*, Vol. I., *post*, *Warrant*, and the general provisions of the statutes, under titles *Larceny* and *Malicious Injuries*, Vol. III.

General warrants condemned.

Although it hath been usual for justices to grant general warrants, to search all suspected places for stolen goods, and there is a precedent in *Dalton*, requiring the constable to search *all such suspected places as he and the party complaining shall think convenient*; yet such practice is generally condemned by the best authorities. Thus, Lord *Hale*, in his *Summary of Pleas of the Crown*, says, a general warrant to search all places for felonies or stolen goods, is not good. *Hale's Sum.* 93. Mr. *Hawkins* says: "I do not find any good authority, that a justice can justify sending a general warrant, to search all suspected houses in general for stolen goods: because such warrant seems to be illegal on the very face of it; for it would be extremely hard to leave it to the discretion of a common officer, to arrest what persons, and search what houses, he thinks fit; and if a justice cannot legally grant a blank warrant for the arrest of a single person, leaving it to the party to fill up, surely he cannot grant such a general warrant, which might have the effect of an hundred blank warrants." 2 *Haw. c.* 13, s. 10, 17. Again, Lord *Hale*, in his *History of the Pleas of the Crown*, expresseth himself thus: "I do take it, that a general warrant to search in all suspected places is not good, but only to search in such particular places, where the party assigns before the justice his suspicion, and the probable causes thereof; for these warrants are judicial acts, and must be granted upon examination of the fact." 2 *Hale*, 150. "And therefore I take those general warrants dormant, which are many times made before any felony committed, are not justifiable, for it makes the party to be in effect the judge; and therefore searches made by pretence of such general warrants give no more power to the officer or party, than what they may do by law without them." 2 *Hale*, 150.

Warrant not to be granted upon bare surmise.

Likewise, upon a *bare surmise*, a justice cannot make a warrant to break any man's house, to search for a felon, or for stolen goods; for the justices, being created by act of Parliament, have no such authority granted to them by any act of Parliament; and it would be full of inconvenience that it should be in the power of any justice of the peace, being a judge of record, upon a bare suggestion, to break the house of any person, of what state, quality, or degree soever, either in the day or night, upon such surmises. 4 *Inst.* 177.

But may, on oath of suspicion.

But in the case of a complaint, and *oath* made of goods stolen, and that the party suspects that goods are in such house, and *shows the cause of his suspicion*, the justice of peace may grant a warrant to search in those suspected places mentioned in his warrant, and to attach the goods, and the party in whose custody they are found, and bring them before him, or some other justice of peace, to give an account how he came by them, and farther to abide such order as to law shall appertain. *Vide Dalt. c.* 169, p. 403; 2 *Hale*, 113, 150; 2 *Wils.* 291; and see the express provisions of the above 7 & 8 Geo. IV. c. 29, s. 63.

However, a *positive* oath that a felony is *actually committed*, is not necessary to justify a magistrate in granting his warrant to search the premises and apprehend the person of a party suspected of felony. *Elsee v. Smith*, 1 D. & R. 97,

in error; *et per Abbott, C. J.*:—"There are many cases in which a cautious man might not choose to swear that his property is stolen, and, nevertheless, he might have great reason to suspect a particular party, and the magistrate would be well warranted in granting his search-warrant. Suppose the case of a horse, which has been lost by its owner, and it is found in the possession of another person; the owner, in that case, might not like to take upon himself to swear that the horse has been stolen, for it might have strayed; but when he finds his horse concealed in the stable of another person, he may very naturally conclude it must have been stolen, from the circumstance of the concealment; and, therefore, he may very conscientiously swear he suspects it to have been stolen. If, under such circumstances, the magistrate is not authorized in issuing his search-warrant, it might happen, in many cases, that felonies would go undetected."

Lord Hale says, "It is fit that these warrants to search do express that search be made in the *day-time*; and though I will not say that they are unlawful without such restriction, yet they are very inconvenient without it; for many times, under pretence of searches made in the night, robberies and burglaries have been committed; and at best it creates great disturbances." 2 Hale, 150.

But, in cases not of probable suspicion only, but of positive proof thereof, it is right to execute the warrant in the night-time, lest the offenders and goods also be gone before morning. *Barl. Search-War.*

Furthermore, such warrant ought to be directed to a constable, or other public officer, and not to any private person; though it is fit the party complaining should be present and assistant, because he knows his goods. 2 Hale, 150.

It should also command, that the goods found, together with the party in whose custody they are taken, be brought before some justice of the peace, to the end that, upon further examination of the fact, the goods and the prisoner may be disposed of as the law directs. 2 Hale, 150.

So much for *granting* a search-warrant; next touching the *execution* of it. Execution of

As regards the power of constables to act in any place within the jurisdiction of the justices who grant the warrant, see the 5 Geo. IV. c. 18, s. 6, *tit. Arrest*. Vol. 1. p.

Whether the stolen goods are in a suspected house or not, the officer and his assistants in the day-time may enter, the doors being open, to make search, and it is justifiable by the warrant. 2 Hale, 151; see further, *Search-Warrant, post*.

If the door be shut, and, upon demand, it be refused to be opened by them within, if the stolen goods be in the house, the officer may break open the door. 2 Hale, 151.

If the goods be not in the house, yet it seems the officer is excused that breaks open the door to search, because he searched by warrant, and could not know whether the goods were there till search made: but it seems that the party that made the suggestion is punishable in such case; for, as to him, the breaking of the door is, *in eventa*, lawful or unlawful,—to wit, lawful, if the goods are there; unlawful, if not there. 2 Hale, 151.

The officer must strictly observe the directions of the warrant, and if he be directed to seize only stolen sugar, and seize tea, he will be a trespasser. 2 B. & P. 158; 2 M. & S. 261.

So, a warrant, under the Vagrant Act, to search all suspected houses, for idle and disorderly persons, is strictly confined to persons of that description, and the officer will not be justified if he attempt to execute it in any other places than those intended by the statute. 1 Leach, 208.

A warrant directing a search in a particular house only, would not justify a search in another.

Where a constable, having a warrant to search for specific articles alleged to have been stolen, found and took away those, and certain others supposed to have been also stolen, but which were not mentioned in the warrant, *and not likely to be of use in substantiating the charge of stealing the goods that were specified*, it was held that the constable was a trespasser. *Crozier v. Cundey*, 6 B. & C. 232.

SEARCH-WARRANT.

Where officers went with a search-warrant, and, at the desire of the party, gave it to him for his perusal, and he would not return it, it was held that they had a right to take it from him, and even to coerce his person to obtain the possession of it, provided they used no more violence than was necessary. *R. v. Milton*, 3 C. & P. 31.

Return of the warrant.

As to general search-warrants, see *ante*, 354.

On the return of the warrant executed, the justice hath these things to do.

As touching the goods brought before him, if it appears they were not stolen, they are to be restored to the possessor; if it appear they were stolen, they are not to be delivered to the proprietor, but deposited in the hand of the sheriff or constable, to the end the party robbed may proceed, by indicting and convicting the offender, to have restitution. 2 *Hale*, 151.

As touching the party that had the custody of the goods, if they were not stolen, then he is to be discharged; if stolen, but not by him, but by another, that sold or delivered them to him, if it appear that he was ignorant that they were stolen, he may be discharged as an offender, and bound over to give evidence as a witness against him that sold them; if it appear he was knowing they were stolen, he must be committed or bound over to answer the felony. 2 *Hale*, 152.

Form of a search-warrant.

County of }

To the Constable of

Whereas it appears to me, J. P., Esq., one of the justices of our lord the king, assigned to keep the peace in the said county, by the information on oath of A. I., of , in the county aforesaid [yeoman], that [or, that he hath probable cause to suspect and doth suspect that] the following goods, to wit, have, within days last past, by some person or persons unknown, been feloniously taken, stolen, and carried away, out of the house of the said A. I., at aforesaid, in the county aforesaid; and that the said A. I. hath probable cause to suspect, and doth suspect, that the said goods, or part thereof, are concealed in the [dwelling-house] of A. O., of , in the said county, [yeoman]. These are therefore, in the name of our said lord the king, to authorize and require you, with necessary and proper assistants, to enter in the day-time into the said [dwelling-house] of the said A. O., at aforesaid, in the county aforesaid, and there diligently to search for the said goods; and if the same, or any part thereof, shall be found upon such search, that you bring the goods so found, and also the body of the said A. O., before me, or some other of the justices of our said lord the king, assigned to keep the peace in the county aforesaid, to be disposed of and dealt withal according to law. Given under my hand and seal, at , in the said county, the day of , in the year of the reign of

Securities, Stealing of. See *Larceny*, Vol. III.

Seditious Meetings, &c. See *Riot*, *ante*, p. 287 to 298; *Libel*, Vol. III.

Seduction. See *Abduction*, Vol. I.

Self-Defence. See *Homicide*, Vol. III. p. 247.

Self-Murder. See *Homicide*, Vol. III. p. 257; *Felo-de-se*, Vol. II.

Servants.

As to *Apprentices*, see *Apprentice*, Vol. I.

As to the *Settlement* of Servants, see *Poor*, Vol. IV.

As to *Seamen*, see *Seamen*, *ante*.

Before noticing the various laws and regulations relative to Servants, it is important to observe, that magistrates have not, as has frequently been supposed, any peculiar jurisdiction over *domestic* servants; such jurisdiction is confined to servants in husbandry, manufacturers, journeymen, artificers, and labourers, and other such class of servants. See *R. v. Inhabitants of Hulcot*, 6 T. R. 583, *post*, 360; *Branwell v. Penneck*, 1 M. & R. M. C. 109; 7 B. & Cres. S. C.; *Lancaster v. Greaves*, 9 B. & Cres. 628; *Hardy v. Ryle*, 9 B. & Cres. 603, *post*. Justices have no peculiar jurisdiction over domestic servants.

I. *Who are to serve*, p. 359.

[5 Eliz. c. 4, s. 7, 28.]

II. *Contract of Service and putting an end to*, p. 360.

[5 Eliz. c. 4, s. 5, 6; 55 Geo. III. c. 184.]

III. *Wages of Domestic Servants and others*, p. 363.

IV. *Wages of Artificers, Labourers, &c.*, p. 364.

[53 Geo. III. c. 40; 58 Geo. III. c. 51, ss. 1, 2, 3, 4, 5, 6.]

V. *Time of Working for Labourers in general, and their Continuance to work*, p. 368.

[5 Eliz. c. 4, s. 12, 13.]

VI. *Working in Harvest*, p. 366.

[5 Eliz. c. 4, s. 22, 23; 13 & 14 Car. II. c. 12, s. 3.]

VII. *Improperly Serving, or putting an end to Service of Labourers, &c.* p. 368.

[5 Eliz. c. 4, s. 8, 9, 39, 45.]

VII. *Testimonial on Labourers, &c. quitting Service*, p. 369.

[5 Eliz. c. 4, s. 10, 11.]

IX. *Labourers, &c. fleeing into another Shire*, p. 370.

[5 Eliz. c. 4, s. 47.]

X. *Disputes between Silk Masters and Workmen*, p. 370.

[13 & 14 Car. II. c. 15; 20 Car. II. c. 6; 8 & 9 Wil. c. 36; 5 Geo. IV. c. 66, c. 95.]

XI. *Disputes between Clothiers and Workmen*, p. 371.

7 Jac. I. c. 7; 13 Geo. I. c. 23; 29 Geo. II. c. 33; 30 Geo. II. c. 12; 14 Geo. III. c. 25; 58 Geo. III. c. 51.]

XII. *Disputes between Masters and Servants in the Woollen, Linen, Fustian, Cotton, and Iron Manufactures*, p. 376.

[1 Anne, st. 2, c. 18; 13 Geo. II. c. 8; 58 Geo. III. c. 51.]

XIII. *Disputes between Masters and Workmen in the Leathern Manufactures*, p. 380.

[13 Geo. II. c. 8; 58 Geo. III. c. 51.]

Servants.

- XIV.** *Disputes between Masters and Workmen in the Hat, Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, or Silk Manufactures*, p. 382.
 [12 Geo. I. c. 34; 13 Geo. I. c. 23; 22 Geo. II. c. 27; 14 Geo. III. c. 44; 15 Geo. III. c. 14; 17 Geo. III. c. 11, c. 55, 56; 58 Geo. III. c. 51; 5 Geo. IV. c. 96; 10 Geo. IV. c. 52.]
- XV.** *Disputes between Masters and Workmen in the Bone and Thread-Lace Manufactory*, p. 396.
 [19 Geo. III. c. 49.]
- XVI.** *Disputes between Masters and Workmen in the Manufactures of Clocks and Watches*, p. 397.
 [27 Geo. II. c. 7.]
- XVII.** *Disputes between Paper-Makers and Workmen*, p. 400.
 [5 Geo. IV. c. 95.]
- XVIII.** *Disputes between Masters and Servants in Husbandry, Artificers, Calico-Printers, Huncicraftsmen, Miners, Colliers, Keelmen, Pitmen, Glassmen, Potters, and other Labourers*, p. 400.
 [20 Geo. II. c. 19; 27 Geo. II. c. 6; 31 Geo. II. c. 11; 6 Geo. III. c. 23; 57 Geo. III. c. 122; 58 Geo. III. c. 51; 4 Geo. IV. c. 34.]
- XIX.** *Disputes between Tailors and Workmen within the Bills of Mortality*, p. 409.
 [7 Geo. I. st. 1, c. 13; 5 Geo. IV. c. 95.]
- XX.** *Disputes between Shoemakers and Workmen within the Bills of Mortality*, p. 410.
 [9 Geo. I. c. 27.]
- XXI.** *Arbitrations between Masters and Workmen*, p. 412.
 [5 Geo. IV. c. 96.]
- XXII.** *Combinations amongst Workmen or Masters*, p. 418.
 [5 Geo. IV. c. 96; 6 Geo. IV. c. 129.]
- XXIII.** *Assaults on Conspiracy to raise Wages*, p. 426.
 [9 Geo. IV. c. 31, s. 25.]
- XXIV.** *Assaults on Seamen, &c. to prevent them from Working*, p. 426.
 [9 Geo. IV. c. 31, s. 26.]
- XXV.** *Servants Firing Houses*, p. 427.
 [6 Anne, c. 31; 14 Geo. III. c. 78.]
- XXVI.** *Servants Stealing*, p. 427.
 [7 & 8 Geo. IV. c. 29.]
- XXVII.** *When Master may beat his Servant*, p. 427.
- XXVIII.** *When Master may beat another in Defence of Servant, or Servant in Defence of Master*, p. 428.
- XXIX.** *When Master liable for Servant's Acts*, p. 428.

XXX. *Enticing away a Servant, and Right to his Inventions, Labour, &c.* p. 480.

XXXI. *Characters of Servants,* p. 431.

[32 Geo. III. c. 56.]

XXXII. *Forms, List of,* p. 434.

I. Who are to serve.

[5 Eliz. c. 4, s. 7, 28.]

BY the common law, no one is compellable to serve another.

As to who may be compelled to be Apprentices, see *Apprentice*, Vol. I. p. 158. What sort of persons are compellable to serve by the year in husbandry.

The 5 Eliz. c. 4, s. 7, enacts, "that every person between the age of twelve years and the age of sixty years, not being lawfully retained, nor apprentice with any fisherman or mariner hunting the seas; nor being in service with any kidder or carrier of any corn, grain, or meal, for provision of the city of London, nor with any husbandman in husbandry, nor in any city, town corporate, or market-town, in any of the arts or sciences limited or appointed by this estatute to have or take apprentices; nor being retained by the year, or half the year at the least, for the digging, seeking, finding, getting, melting, fining, working, trying, making of any silver, tin, lead, iron, copper, stone, sea-coal, stone-coal, moor coal, or chark-coal; nor being occupied in or about the making of any glass; nor being a gentleman born; nor being a student or scholar in any of the universities, or in any school; nor having lands, tenements, rents, or hereditaments, for term of life, or of one estate of inheritance of the clear yearly value of 40s.; nor being worth in goods and chattels to the value of 10l.; nor having a father or mother then living, or other ancestor whose heir-apparent he is, then having lands, tenements, or hereditaments of the yearly value of 10l. or above, or goods or chattels of the value of 40l.; nor being a necessary or convenient officer or servant lawfully retained as is aforesaid; nor having a convenient farm or holding whereupon he may or shall employ his labour; nor being otherwise lawfully retained according to the true meaning of this estatute: shall . . . be compelled to be retained to serve in husbandry by the year with any person that keepeth husbandry, and will require any such person so to serve within the same shire where he shall be so required."

Sect. 24. "That two justices of peace, the mayor or other head officer of any city, borough, or town corporate, and two aldermen, or two other discreet burgesses of the same city, borough, or town corporate, if there be no aldermen, shall and may, by virtue hereof, appoint any such woman as is of the age of twelve years, and under the age of forty years and unmarried, and forth of service, as they shall think meet to serve, to be retained or serve by the year, or by the week or day, for such wages, and in such reasonable sort and manner as they shall think meet; and if any such woman shall refuse so to serve, then it shall be lawful for the said justices of peace, mayor, or head officers, to commit such woman to ward, until she shall be bounden to serve as is aforesaid."

Women compellable to serve that be above twelve and under forty years old, unmarried, and forth of service.

An infant of twelve years of age shall be bound by his covenant to serve in husbandry. 2 F. N. B. 168.

Infant hiring.

A woman of such age shall also be bound to serve in husbandry by her covenant.

If a man take an infant or other out of another's service, he shall be punished, although the infant or other were not retained.

An infant, by his covenant, shall be bound to serve in husbandry, although he may spend 40s., or twelve marks, by the year.

II. Contract of Service, and putting an end to.

[5 Eliz. c. 4, s. 5, 6; 55 Geo. III. c. 184.]

In writing.

The contract of service need not in general be in writing.

Stamp-duty.

By the 55 Geo. III. c. 184, a memorandum or agreement for the hire of any labourer, artificer, manufacturer, or menial servant, is exempt from stamp-duty. See *R. v. St. Paul's, Bedford*, 6 T. R. 452.

Term of service.

If a person retain a servant generally, without expressing any time, the law shall construe it to be for one year, for that retainer is according to law. 2 Inst. 42; *Burr. S. C.* 299, 513; 4 Bing. 389.

And so of clerks and servants in general; and the service, except of domestic servants, cannot be put an end to before the end of the current year. *Beeston v. Collyer*, 4 Bing. 389; 2 C. & P. 607, S. C.; *Huttman v. Bullnois*, 2 C. & P. 510; *Aitkin v. Acton, cor. Tenterden, at Westminster*, 16th April, 1830; unless upon some ground of misconduct on the part of either party. *Id.*

By the retainer, the servant is in service presently by the law, although he cometh not into his master's service in deed: for the retainer is the proper inchoation of the service. *Bro. Ab. Labourers*, pl. 9, c. 11; *Dalt. c.* 58, p. 140.

By express agreement, either in writing or otherwise, the hiring may be for more or less than a year.

A hiring at 6s. per week for the winter, and 9s. per week for the summer, is not a yearly hiring. 6 B. & C. 77. And as to quarterly payments being evidence of a quarterly hiring, see 5 Bing. 132.

By the general understanding on the subject, and without an express agreement or understanding to the contrary, it should seem that domestic servants, who are hired by the year, are subject to be dismissed or to depart at any time on a month's notice, given by either, or a month's pay by the master. See *Robinson v. Hindman*, 3 Esp. 235; 6 T. R. 326.

But this does not apply to a person in the situation of a clerk of an army-agent, or the like, receiving a yearly salary. *Beeston v. Collyer*, 4 Bing. 389; 2 C. & P. 607, S. C.

And in a late case it seems to have been considered, that if a clerk be engaged at a salary of 100l. a year, and, having received his wages up to a certain time, and served some time longer, then leave the service before the year expires, without due cause, and without any notice, he was not entitled to recover any wages up to the time of his quitting; and at all events it was considered he was liable to a cross action for leaving the service without notice. *Huttman v. Bullnois*, 2 C. & P. 510.

A quarter's warning to be given to husbandry servants.

By the 5 Eliz. c. 4, s. 5, 6, (many of the provisions of which are repealed by the 49 Geo. III. c. 109, see *Apprentices*, Vol. I.) no person which shall retain any servant shall put away his said servant, and no person retained according to this statute (a) shall depart before the end of his term, unless it be for some reasonable cause, to be allowed before one justice, or mayor or other chief officer, of the town corporate wherein the master inhabiteth, to whom the party grieved shall complain: and no master shall put away any such servant at the end of his term, nor shall any such servant depart at the end of his term, without one quarter's warning, on pain hereafter ensuing.

Putting an end to service for misconduct.

In all cases (except apprenticeships in general, *Winstone v. Linn*, 1 B. & C. 460; 2 D. & R. 465, S. C.), if either party be guilty of misconduct towards the other, or, in other words, if he break the contract of hiring, the other may put an end thereto and the service. But he must, it should seem, put an end thereto within a reasonable time after the misconduct, and not waive the right to put an end to it by any delay.

(a) But the power of the justices under this act is confined to servants employed in husbandry. *R. v. Inhabitants of Hulcot*, 6 T. R. 583.

As to what shall amount to sufficient misconduct for this purpose, must depend on the particular circumstances of each case.

In the case of *Spain v. Arnott*, *Ld. Ellenborough, C. J.*, at *N. P.*, held, that if a servant hired for a year *refuse to obey his master's orders*, the master is justified in dismissing him before the end of the year, and the servant cannot recover any wages. *Spain v. Arnott*, 2 *Stark. N. P.* 256. This was an action brought by the plaintiff to recover wages for his service from Michaelmas to July. The plaintiff was a yearly servant to the defendant, who was a farmer. The plaintiff usually breakfasted at five o'clock in the morning, and dined at two. One day the master ordered the servant to go with the horses to the marsh, which was a mile off, before dinner, dinner being then ready. The plaintiff said, that he had done his due, and would not go till he had had his dinner: the defendant told him to go about his business, and the plaintiff went accordingly, without offering any submission, or to obey his master's orders. On the part of the defendant, it was contended, that the action was not maintainable, since the contract was a year's service in husbandry, which had not been performed. *Scarlett*, for the plaintiff, contended that, if the master had had any reason to complain of the conduct of the servant, he ought to have complained to a magistrate, for relief. That the master could not, by turning the servant away before the completion of the year, dissolve the contract, and bereave him of his wages; it would be exceedingly hard if he could, for then he might put an end to the contract on the very last day. *Ld. Ellenborough, C. J.*: "If the contract be for a year's service, the year must be completed before the servant is entitled to be paid. If the plaintiff persisted in refusing to obey his master's orders, I think he was warranted in turning him away. He might have obtained relief by applying to a magistrate; but he was not bound to pursue that course, the relation between master and servant, and the laws by which that relation is regulated, existed long before that statute. There is no contract between the parties, except that which the law makes for them; and it may be hard upon the servant, but it would be exceedingly inconvenient if the servant were to be permitted to set himself up to control his master in his domestic regulations, such as the time of dinner. After a refusal on the part of the servant to perform his work, the master is not bound to keep him on, as a burdensome and useless servant, to the end of the year. In the present instance, it might be very inconvenient for the master to change the hour of dinner: the question really comes to this—whether the master or the servant is to have the superior authority?"—A juror was afterwards withdrawn by consent.

CONTRACT OF
SERVICE:
PUTTING AN
END TO, &c.
Disobeying
orders.

Being absent when wanted, sleeping from home at night without his master's leave, &c., is a sufficient cause for dismissal, and the servant will only be entitled to such wages as are due at the time of his discharge. *Robinson v. Hindman*, 3 *Exp.* 235.

Absence.

Where a clerk and traveller, hired by the year, assaulted his employer's maid servant, with intent to take liberties with her against her consent, it was held to be a good cause of immediate dismissal, *Atkin v. Acton*, 4 *C. & P.* 206; and it seems also, from that case, that a servant dismissed for such or the like cause is not entitled to proportionate wages, even for the time he has actually served. *Id.*

Assaulting female
servant.

In the case of *R. v. Brampton*, *Cald.* 11, the principal question was, whether a maid servant hired for a year could be discharged by her master three weeks before the end of the year (*she being with child*), by his own authority, without the intervention of a magistrate, so as to prevent her gaining a settlement. By *Ld. Mansfield, J. C.*: "The question is, has the master done right or wrong in discharging his servant for this cause? I think he did not do wrong. Shall the master be bound to keep her in his house? To do so would be *contra bonos mores*; and, in a family where there are young persons, both scandalous and dangerous." *Willes, J.*, said, that "This case differs from those of *R. v. Richmond*, *Burr. S. C.* 740, and *R. v. Islip*, 1 *Str.* 423 (see *Poor, Settlement by Service*, Vol. IV.), where the cause of the discharge of the servant by the master was not reasonable. Here, if the master had daughters, it would not be fit that he should keep such a servant, though I think he could not avail himself

Being with child.

CONTRACT OF
SERVICE:
PUTTING AN
END TO.

Alleged criminality.

Husband prior to service.

Insanity.

Servants marrying.

Sickness.

of the authority of a magistrate, the jurisdiction of justices being confined to cases in husbandry." (a)

Where the master discharged a yearly servant on account of a *supposed* criminal intimacy with a servant girl, who had previously left the service big with child, the Court of King's Bench seemed clear, that if the criminality had really existed, the case would have come within the principle of the above case of *R. v. Brampton*. *R. v. Welford*, *Cald.* 57.

But, in *R. v. Westmeon*, *Cald.* 129, it was said by *Ld. Mansfield*, C. J., that the servant being the father of a bastard child, prior to the master's hiring him, and the crime not committed when in his own house, the master shall not discharge him under this pretence: it is not a debauching of his servant, or turning his house as it were into a brothel.

When a magistrate discharges a labouring or other such servant from the service of his master, it must appear on the face of the order itself to be a case within the jurisdiction of the magistrate. *R. v. Hulcott*, 6 T. R. 583.

It does not appear to be settled whether the insanity of a servant be a good cause for discharging him. In *R. v. Sutton*, 5 T. R. 659, *Ld. Kenyon*, C. J., appeared to be of opinion that insanity was not a legal cause for discharging a servant; but this opinion being cited and relied upon in a subsequent case (*R. v. Inh. of Hulcott*, 6 T. R. 587), his lordship said, "I am not prepared to go that length; in that case there had been no application to a magistrate to discharge, and I think that the master could not of his own authority discharge the servant for that cause."

A servant's marrying is no reasonable cause for discharge, for it is not a *misdeemeanor*, and nothing else is a cause. *Com. Dig. tit. "Justices of Peace,"* (B. b. 3). *Sed quare* as to nothing else being a cause. See *supra*.

If a woman who is a servant shall marry, yet she must serve out her time, and her husband cannot take her out of her master's service. *Dalt.* c. 58; *Wood's Inst.* b. 1, c. 6.

If a married man and his wife do bind themselves to serve, they shall be compelled to serve according to their covenant or agreement. *Dalt.* c. 58.

If a servant retained for a year happen within the time of his service to fall sick, or to be hurt or disabled by the act of God, or in doing his master's business

(a) Upon which case *Mr. Caldecott* observes, that all that seems established by this case is, that a master may, without the intervention of a magistrate, dismiss his servant for moral turpitude, even though it be not such for which the servant may be prosecuted at common law. Whether he may or not for any other species of misconduct or general misbehaviour, though there are authorities to show that he cannot, seems, from this case, not to be fully and absolutely settled. By the general practice throughout the kingdom, and particularly in large towns, this power, however warranted, is exercised by masters; certainly, this question has not of late years been brought before the court for argument, except in the case of *Burrow v. Sayer*, T. R. 27 G. 2. But at the sittings at *Westminster*, 1773, it arose before *Ld. Mansfield*. A wet-nurse retained for the year, was discharged by her mistress, who tendered her her wages in proportion to the time she had served: this was refused, and the action brought for

the whole year. It was proved, on behalf of the defendant, that the plaintiff had been frequently insolent to her mistress, the defendant's wife; and was subject to violent fits of passion, in which she had several times frightened, and once awakened her mistress while sleeping, before her recovery. It was also proved, that these fits of passion must be injurious to her milk; and it was insisted, that all these circumstances amounted to reasonable cause, and even created a necessity, of discharging the plaintiff. But, per *Ld. Mansfield*, "No person can be judge in his own cause; and this first principle could never be meant to be overturned by any law or usage whatsoever;" and though it was stated as the general usage or practice in London, *Westminster*, and the environs, to dismiss servants with a month's wages, it was disregarded by the court, and the servant had a verdict for the whole year. *Temple v. Prescott*. But see, *ante*, 360—*post*, 463, as to this latter doctrine.

ness, yet the master must not, therefore, put such servant away, nor abate any part of his wages for such time. *Dalt. c. 58, p. 141*; see further, 2 *H. Bla.* 606; *R. v. Winter, Dalt. Cald.* 298. WAGES OF DOMESTICS, &c.

Sickness does not put an end to the service on the part of the servant, neither does it authorize the master to put him away. *Per Le Blanc, J., R. v. Sudbrooke, 1 Smith's Rep.* 59.

In the case of domestic servants, however, there appears no objection to the master's putting an end to the service on giving the usual month's notice, or a month's pay.

As to the liability to pay the doctor's bill, see *post*, 364.

III. Wages of Domestic Servants and others.

The amount of wages of domestic servants, clerks, and others, is regulated by the contract entered into by them.

Wages of domestics and others.

"It is clearly agreed that if a person retain a servant and agree to pay him so much by the day, month, or year, that the servant may have an action against the master on the contract, or against his executors, and that every such retainer will be presumed to be in consideration of wages, unless the contrary appear." *Bac. Ab. Master & Servant, (n.)*; 9 *Co. 88, a. b.*; 2 *Roll. Rep.* 269.

But if there be no express or implied agreement for wages, as if the servant merely came on trial, or the like, he can claim none.

And in *Alfred v. Fitzjames, 3 Esp.* 3, it was held that a servant who comes over from the West Indies, where he has been a slave, and who continues in the service of his master in England, is not entitled to wages without an express agreement; and see 2 *C. & P.* 231; *Stra.* 728; 1 *Esp. R.* 188.

So, if A. agrees to serve B. as an apothecary's assistant at such salary as C. should think reasonable, and it appear that no application had been made to C. to fix any salary, A. cannot recover any thing for his services in an action for work and labour. *Owen v. Bowen, 4 C. & P., C. N. P.* 93; and see 1 *M. & S.* 290; 5 *Tam.* 302; *Stra.* 728; 1 *Esp.* 188.

A domestic servant, hired in the general way, is entitled to his wages up to the time he serves, though he do not continue in the service, either from misconduct or otherwise, during the whole year. See *Cutler v. Powell, 6 T. R.* 326; for such is the general understanding on the subject.

BUT this does not apply to clerks and other servants, who must in general serve, or be ready and offer to serve, during the whole time of their engagement, whether by the year or otherwise; and if they do not, they are not entitled to wages not accrued due during the time of service, for an entire contract cannot be apportioned. See *Huttman v. Bullnois, 2 C. & P.* 510; *per* *Ld. Ellenborough, 2 Stark.* 256; *ante*, 360; and the case of *Atkin v. Acton, 4 C. & P.* 208, *ante*, 360; and see 6 *T. R.* 623, 626, as to *death*.

And if such clerk or servant be improperly dismissed before the end of the year or other time of his hiring, he may, on showing his readiness to complete the service, recover wages for the full time of his hiring, on pleadings properly framed. See *Gandall v. Pontigny, 4 Camp.* 375; 1 *Stark.* 198, *S. C.*; *Archard v. Horner, 3 C. & P.* 349.

In *R. v. Whittlebury, 6 T. R.* 467, *Lawrence, J.*, says, "No money is due from the master to the servant until the completion of the year or the end of the service."

In *Dalt. c. 58, p. 141, Com. Dig. Justices, B. 63*, it is said, that if a servant (*id est*, a labourer, &c.) of his own accord shall depart from his master before his time expire, he shall lose all his wages. But if he depart with the consent of his master, he shall have his wages for the time he served.

A servant of any description, when discharged for misconduct (as to which see, *ante*, 360, 362), is not entitled to any wages from the day of his discharge. See *Robinson v. Hindman, 3 Esp.* 235.

But if a domestic servant has not been guilty of misconduct, and the master discharges him without warning, the servant, in that case, will be entitled to a

WAGES OF ARTIFICERS, &c. month's wages beyond the wages due for the period of actual service. Admitted per *Ld. Kenyon, C. J., S. C., 2 Selw. N. P. 1032.*

Sickness.

A servant incapacitated from actual service during part of the time of his living, by sickness, is still entitled to wages during that period. *Ante*, 362, 363.

But a master is not bound to provide a domestic servant with medical attendance and medicines during sickness; but if a servant fall sick, and the master call in his own medical man to attend such servant, the master will be liable, and cannot deduct the charges for such medical attendance out of the servant's wages, unless there be a special contract between the master and servant to that effect. *Sellen v. Norman, 4 C. & P. 80*; and see *Newby v. Wiltshire, 2 Esp. 739*; *Wennall v. Adney, 3 B. & P. 247*; *Watling v. Walters, 1 C. & P. 132*; *sed vide Scarman v. Castell, 1 Esp. 91.*

Breakages.

Against the claim for wages, the master cannot, without an express agreement to that effect, set off the value of goods lost or broken by the servant's carelessness, however gross. See 4 *Camp. 134*. The master's remedy, in such case, would be by cross action.

Clothes.

A servant, engaged at 30 guineas a year and a suit of clothes, was provided with a livery suit on his entering into the service. He was wrongfully turned away in the year: held, he could not maintain *trover* for the suit of clothes. *3 C. & P. 470*; and see *id.*, 349.

Presumed payment.

If a servant has left his service for a considerable time, without claiming wages, the presumption is, that all his wages have been paid. *Sellen v. Norman, 4 C. & P. 80.*

And in a case cited in 4 *C. & P. 81, n.*, tried some time back at Guildhall, which was an action by a workman at a sugar-refiner's, a witness proved that the plaintiff had worked there for more than two years. But *Abbott, C.J.*, said, that he should direct the jury to presume that men employed in that way were regularly paid every Saturday night, unless some evidence was given on the part of the plaintiff to satisfy the jury that the plaintiff had, in point of fact, never been paid; and, as no such evidence was produced, the plaintiff was nonsuited.

IV. Wages of Artificers, Labourers, &c.

[53 Geo. III. c. 40; 58 Geo. III. c. 51.]

Amount of.
53 Geo. 3, c. 40.

Amount of—By the 53 Geo. III. c. 40, after reciting the several acts of 5 Eliz. c. 4, 1 Jac. I. c. 6, and the Scotch acts of the twenty-second Parliament of Jac. I. and the first Parliament of Car. II., and that it is expedient that the powers given by the said acts, and by various other acts passed in the Parliaments of Scotland, to justices of the peace and magistrates of cities and boroughs, to rate wages or fix prices for work, for artificers, labourers, and craftsmen, should be repealed: it is therefore enacted, "that so much of the said recited acts, and of each of them, or of any other act of Parliament in force in Scotland, as authorizes and empowers any justices of the peace or magistrates of cities and burghs to rate wages or fix prices of work for artificers, labourers, and craftsmen, shall be and the same is hereby repealed; and all orders heretofore made by any justice or justices of the peace or magistrates, in England or Scotland respectively, under the authority of the said recited acts, or any or either of them, for or in relation to the rating any wages, or settling or fixing any prices of work to be done or performed by any artificers, labourers or craftsmen, or servants, shall be and the same are hereby declared to be void and of none effect; any thing in the said acts, or any or either of them, to the contrary notwithstanding."

The amount of such servants' wages, therefore, remains regulated as at common law, viz. by the agreement between the parties.

Mode of paying wages.

The mode of paying the wages of artificers, labourers, &c., is regulated by various acts of Parliament, relative to the trades and employments in which the parties are engaged. See the provisions, *post*.

Payment of Wages in Bank Notes—By the 58 Geo. III. c. 51, s. 1, after reciting that by the several stats. 4 Ed. IV. c. 1, 1 Anne, st. 2, c. 18, 10 Anne, c. 16 (a), 1 Geo. I. c. 15 (a), 7 Anne, c. 13 (a), 12 Geo. I. c. 34, 13 Geo. I. c. 23, 13 Geo. II. c. 8, 22 Geo. II. c. 27, 29 Geo. III. c. 23, 13† Geo. III. c. 56, 57 Geo. III. c. 115, and 57 Geo. III. c. 122; the payment of the wages of workmen employed in certain trades and occupations in the aforesaid acts enumerated, in any other way than the lawful coin or money of this realm, is prohibited and made penal: and whereas it would be expedient that persons concerned in the trades or occupations, or concerned in the employment of artificers, workmen, or labourers, of the descriptions mentioned in the aforesaid acts, should be permitted, in all cases where such artificers, workmen, or labourers shall be willing to receive the same in payment, to satisfy and pay the wages of such artificers, workmen, or labourers, in notes of the governor and company of the Bank of England, or in notes of any duly licensed banker or bankers, issued under the authority and according to the provisions of the acts for the time being for granting and regulating the stamp-duties, and other the act or acts for the time being, for that purpose made and provided: it is enacted, “that it shall and may be lawful to and for all and every person or persons concerned in the trades or occupations, or concerned in the employment of artificers, workmen, or labourers of the descriptions mentioned in the aforesaid acts, or any of them, to pay the wages of their, his, or her workman or workmen, labourer or labourers, artificer or artificers, in a note or notes of the governor and company of the Bank of England, or in a note or notes of any duly licensed banker or bankers, issued under the authority of the statutes for the time being in that behalf made and provided, and according to the provisions of the statutes for the time being for granting and regulating the stamp-duties in all cases where his, her, or their labourer or labourers, workmen† or workmen, artificer or artificers, shall freely and voluntarily consent, and be willing to accept and receive the same in payment or satisfaction of his, her, or their wages, but not otherwise.”

WAGES OF ARTIFICERS, &c.

Payment of wages in bank notes.

† *Quære*, 171

Wages may be paid in bank notes, if the party consents.

† *See*.

SECT. 2. “And whereas by the said acts, or some of them, it is provided, that the forfeitures and penalties thereby imposed on persons concerned in the trades and occupations, or concerned in the employment of artificers, workmen, and labourers, of the description therein mentioned, who shall pay the wages of the said artificers, workmen, or labourers, or any part thereof, otherwise than in the lawful coin or money of this realm, contrary to the provisions of the said acts, shall be paid, in some cases, to the artificers, workmen, and labourers, and, in other cases, one moiety to the informer, and the other moiety to the party or parties aggrieved: and whereas it would tend to the more easy conviction of offenders, if the said forfeitures and penalties were in future in all cases to be paid, one moiety to the informer, and the other moiety to the use of the poor of the parish in which the offence is committed;” it is enacted, “that so much of the said acts, or any of them, as directs the payment of the said forfeitures and penalties, either to the labourers, artificers, or workmen themselves, or in equal moieties to the informer and to the party or parties aggrieved, shall be, and the same is hereby repealed.”

So much of related acts as relates to payment of forfeitures, repealed.

SECT. 3. “That from and after the passing of this act, if any person or persons shall incur and be convicted in any penalty or penalties under any of the said acts, such penalty or penalties, in which any such person or persons shall be so convicted, instead of being applied as by the said acts, or any of them, is directed, shall be paid and applied, one moiety thereof to the informer, and the other moiety to the churchwardens and overseers of the poor, or in Scotland to the kirk session, of the parish within which the said offence shall have been committed, for the use of the poor of the said parish.”

One moiety of forfeitures to informer, the other to the poor, or in Scotland to the kirk session of the parish.

SECT. 4. “That if the informer shall be called to give evidence, the whole of the penalty shall in that case go to the poor of the parish.”

In what case penalty to poor.

SECT. 5. “And whereas difficulties have occurred in the execution of the

Form of conviction in schedule (A.) to be adopted. (c)

(a) The 49 Geo. III. c. 109, repeals these statutes.

(b) See form, *post*.

(c) See form, *post*.

WAGES OF ARTIFICERS, &c.

58 Geo. 3, c. 51.

aforsaid acts, by reason of there being no form of conviction therein enacted," it is enacted, "that for the more effectually preventing the pernicious practices mentioned in the said recited acts, and for the more easy and effectual carrying into effect the wholesome provisions of the said acts, the form of conviction inserted in schedule (A.) (a) to this act annexed, shall be deemed and taken to be the legal and proper form of conviction as to any penalty or penalties to be incurred under any or either of the aforsaid acts."

Powers of recited acts extended to this act.

Sect. 6. "That all the powers, provisions, regulations, pains, penalties, and forfeitures in the said acts or any of them contained, for the purposes aforsaid, shall be exercised, enforced, levied, recovered, and applied, in as ample and full a manner as if the same had been thereby enacted."

Disputes as to wages.

Disputes as to Wages—The 20 Geo. II. c. 19, 31 Geo. II. c. 11, and 4 Geo. IV. c. 34, and other acts, *post*, Sect. XVIII., relate to the settlement of disputes between masters and labourers. As to the wages, &c. see *post*.

V. Time of Working for Labourers in general, and their Continuance to Work.

[5 Eliz. c. 4, s. 12, 13.]

How long labourers shall continue at their work.

By the 5 Eliz. c. 4, s. 12, it is enacted, "that all artificers and labourers, being hired for wages by the day or week, shall, betwixt the midst of the months of March and September, be and continue at their work at or before five of the clock in the morning, and continue at work and not depart until betwixt seven and eight of the clock at night (except it be in the time of breakfast, dinner, or drinking, the which times at the most shall not exceed above two hours and a half in a day, that is to say, at every drinking one half-hour, for his dinner one hour, and for his sleep, when he is allowed to sleep, the which is from the midst of May to the midst of August, half an hour at the most, and at every breakfast one half-hour:) and all the said artificers and labourers, between the midst of September and the midst of March, shall be and continue at their work from the spring of the day in the morning until the night of the same day, except it be in time before appointed for breakfast and dinner; upon pain to lose and forfeit one penny for every hour's absence, to be deducted and defaulted out of his wages that shall so offend."

No artificer or labourer shall depart before his work be finished.

Sect. 13. "That every artificer and labourer that shall be lawfully retained in and for the building or repairing of any church, house, ship, mill, or every other piece of work taken in great, in task, or in gross, or that shall hereafter take upon him to make or finish any such thing or work, shall continue and not depart from the same, unless it be for not paying of his wages or hire agreed on, or otherwise lawfully taken or appointed to serve the queen's majesty, her heirs, or successors, or for other lawful cause, or without license of the master or owner of the work, or of him that hath the charge thereof, before the finishing of the said work; upon pain of imprisonment by one month, without bail or mainprize; and the forfeiture of the sum of 5*l.* to the party from whom he shall so depart; for the which the said party may have his action of debt against him that shall so depart, in any of the queen's majesty's courts of record, over and besides such ordinary costs and damages as may or ought to be recovered by the common laws, for or concerning any such offence: in which action no protection, wager of law, or essoin, shall be admitted."

VI. Working in Harvest.

[5 Eliz. c. 4, s. 22, 23; 13 & 14 Car. II. c. 12, s. 3.]

Artificers compellable to work in hay-time and harvest.

By the 5 Eliz. c. 4, s. 22, it is enacted, "that in the time of hay or corn

(a) Form (No. 1), *post*.

harvest, the justices of peace, and every of them, and also the constable, or other head officer of every township upon request, and for the avoiding of the loss of any corn, grain, or hay, shall and may cause all such artificers and persons as be meet to labour, by the discretions of the said justices or constables, or other head officers, or by any of them, to serve by the day for the mowing, reaping, shearing, getting, or inning of corn, grain, and hay, according to the skill and quality of the person; and that none of the said persons shall refuse so to do, upon pain to suffer imprisonment in the stocks by the space of two days and one night: and the constable of the town, or other head officer of the same, where the said refusal shall be made, upon complaint to him made, shall have authority, by virtue hereof, to set the said offender in the stocks for the time aforesaid, and shall punish him accordingly, upon pain to lose and forfeit, for not doing thereof, the sum of 40s."

Sec. 23. "That all persons of the counties where they have accustomed to go into other shires for harvest-work, and having, at that time, no harvest-work sufficient in the same town or county where he or they dwell in the winter then last past, bringing with him or them a testimonial, under the hand and seal of one justice of the peace of the shire, or other head officer of the town or place that he or they come from, testifying the same, for the which he shall pay not above one penny† (other than such persons as shall be retained in service, according to the form of this estatute), may repair and resort in harvest of hay or corn, from the counties wherein their dwelling-places are, into any other place or county, for the only mowing, reaping, and getting of hay, corn, or grain, and for the only working of harvest-works, as they might have done before the making of the estatute; any thing herein contained to the contrary notwithstanding."

By the 13 & 14 Car. II. c. 12, s. 3, it is enacted, "that (this act notwithstanding) it shall and may be lawful for any person or persons to go into any county, parish, or place, to work in time of harvest, or at any time to work at any other work, so that he or they carry with him or them a certificate from the minister of the parish, and one of the churchwardens and one of the overseers for the poor for the said year, that he or they have a dwelling-house or place in which he or they inhabit, and hath left wife and children, or some of them there (or otherwise, as the condition of the persons shall require), and is declared an inhabitant or inhabitants there; and, in such case, if the person or persons shall not return to the place aforesaid, when his or their work is finished, or shall fall sick or impotent whilst he or they are in the said work, it shall not be accounted a settlement in the cases abovesaid, but that it shall and may be lawful for two justices of the peace to convey the said person or persons to the place of his or their habitation as aforesaid, under the pains and penalties in this act prescribed; and if such person or persons shall refuse to go, or shall not remain in such parish where they ought to be settled as aforesaid, but shall return, of his own accord, to the parish from whence he was removed, it shall and may be lawful for any justice of the peace of the city, county, or town corporate, where the said offence shall be committed, to send such person or persons offending to the house of correction, there to be punished as a vagabond, or to a public workhouse in this present act hereafter mentioned, there to be employed in work or labour: and if the churchwardens and overseers of the poor of the parish to which he or they shall be removed, refuse to receive such person or persons, and to provide work for them, as other inhabitants of the parish, any justice of peace of that division may and shall thereupon bind any such officer or officers in whom there shall be default, to the assizes or sessions, there to be indicted for his or their contempt in that behalf."

WORKING IN
HARVEST.

A proviso for
some that go into
other shires for
work in hay time
and harvest.

† Sic.

Persons going to
work in harvest.

VII. Improperly Serving, or putting an End to Service of Labourers, &c.

[5 Eliz. c. 4, s. 8, 9, 39, 45.]

We have already seen how far *domestic* servants and others are entitled to wages, or actions in case of their improper dismissal, *ante*, 360 to 364.

The forfeiture for putting away his servant within his term, or at the end of his term without warning.

By the 5 Eliz. c. 4, s. 8, it is enacted, "that if any person, after he hath retained any servant (viz. in husbandry, &c., see, *ante*, p. 359), shall put away the same servant before the end of his term, unless it be for some reasonable and sufficient cause, to be allowed as is aforesaid (viz. sect. 5, *ante*, 360); or if any such master, mistress, or dame shall put away any such servant at the end of his time, without one quarter's warning given before the said end, as is above remembered, that then every such master, mistress, or dame so offending, unless he or they be able to prove by two such sufficient witnesses such reasonable and sufficient cause of putting away their servant or servants during their term, or a quarter's warning given afore the end of the said term as is aforesaid, before the justices of oyer and terminer, justices of assize, justices of peace in the quarter sessions, or before the mayor or other head officer of any city, borough, or town corporate, and two aldermen, or two other discreet burgesses of the same city, borough, or town corporate, if there be no aldermen, or before the lord president and council established in the marches of Wales, or before the lord president and council for the time being established in the north parts, shall forfeit the sum of 40s."

The punishment of a servant which performeth not his duty in service or departure.

Sect. 9. "If any servant retained according to the form of this estatute, depart from his master, mistress, or dame's service, before the end of his term, unless it be for some reasonable and sufficient cause to be allowed as is aforesaid; or if any servant at the end of his term depart from his said master, mistress, or dame's service without one quarter's warning given before the end of his said term, in form aforesaid, and before two lawful witnesses; or if any person or persons compellable and bounden to be retained, and to serve in husbandry, or in any other the arts, sciences, or mysteries above remembered, by the year or otherwise, do (upon request made) refuse to serve for the wages that shall be limited, rated, and appointed, according to the form of this statute, or promise or covenant to serve, and do not serve according to the tenor of the same; that then every servant so departing away, and every person so refusing to serve for such wages, upon complaint thereof made by the master, mistress, or dame of the said servant, or by the party to or with whom the said refusal is made, or promise not kept, to two justices of peace of the county, or to the mayor, or other head officer of the city, borough, or town corporate, and two aldermen, or two other discreet burgesses of the same city, borough, or town corporate, if there be no aldermen, where the said master, mistress, or dame, or the said party to or with whom the said refusal is made, and promise not kept, dwelleth, or to either of the said lords presidents and council of Wales, and the North, the said justices, lords presidents, and councils, and also the said mayors or other head officers, and other persons of cities, boroughs, or towns corporate, or any of them as is aforesaid, shall have power, by force of this statute, to hear and examine the matter, and finding the said servant or the said party so refusing faulty in the premises, upon such proofs and good matter as to their discretions shall be thought sufficient, to commit him or them to ward, there to remain without bail or mainprize, until the said servant or party so offending shall be bound to the party to whom the offence shall be made, to serve and continue with him for the wages that then shall be limited and appointed according to the tenor and form of this estatute, and to be discharged upon his delivery, without paying any fee to the gaoler where he or they shall be so imprisoned."

Who shall have the forfeitures mentioned in this statute.

Sect. 39. "That the one-half of all forfeitures and penalties, expressed and mentioned in this estatute, other than such as are expressly otherwise appointed, shall be to our sovereign lady the queen's majesty, her heirs and successors, and the other moiety to him or them that shall sue for the same in any of the queen's

majesty's courts of record, or before any of the justices of oyer and terminer, or before any other justices, or president and council before remembered, by action of debt, information, bill of complaint, or otherwise; in which actions or suits, no protection, wager of law, or essoin shall be allowed; and that the said justices, or two of them, whereof one to be of the quorum, and the said presidents and council, as is aforesaid, and the said mayors or other head officers of cities or towns corporate, shall have full power and authority to hear and determine all and every offence and offences that shall be committed or done against this estatute, or against any branch thereof, as well upon indictment to be taken before them in the sessions of the peace, as upon information, action of debt, or bill of complaint to be sued or exhibited by any person; and shall and may by virtue hereof make process against the defendant, and award execution, as in any other case they lawfully may by any the laws and statutes of this realm; and shall yearly in Michaelmas Term certify, by estreat, the fines and forfeitures of every the offences contained in this estatute, that shall be found before them, into the Court of Exchequer, in like sort and form as they be bound to certify the estreats for other offences and forfeitures to be lost before them; any thing in this statute contained to the contrary notwithstanding."

Sect. 45. "That all manner of americiaments, fines, issues, and forfeitures which shall arise, grow, or come by reason of any offences or defaults mentioned in this act, or any branch thereof, within any city or town corporate, shall be levied, gathered, and received by such person or persons of the same city or town corporate, as shall be appointed by the mayor or other head officers mentioned in this act, to the use and maintenance of the same city or town corporate, in such case and condition as any manner other americiaments, fines, issues, or forfeitures have been used to be levied and employed within the same city or town corporate, by reason of any grant or charter from the queen's majesty that now is, or of any her grace's noble progenitors, made and granted to the same city, borough, or town corporate; any thing or clause before mentioned and expressed in this act to the contrary notwithstanding."

TESTIMONIALS ON QUITTING SERVICE.

5 Eliz. c. 4.

Justices of peace, mayor, &c., may hear and determine all offences committed against this statute.

Who shall have the forfeiture in cities and towns corporate.

† Sic.

VIII. Testimonials on Labourers, &c. quitting Service.

[5 Eliz. c. 4, s. 10, 11.]

By the 5 Eliz. c. 4, s. 10, it is enacted, "that none of the said (*ante*, sec. 7, p. 359) retained persons in husbandry, or in any the arts or sciences above remembered, after the time of his retainer expired, shall depart forth of one city, town, or parish, to another, nor out of the lath, rape, wapentake, or hundred, nor out of the county or shire where he last served, to serve in any other city, town corporate, lath, rape, wapentake, hundred, shire, or county, unless he have a testimonial under the seal of the said city or town corporate, or of the constable or constables, or other head officer or officers, and of two other honest householders of the city, town, or parish where he last served, declaring his lawful departure, and the name of the shire and place where he dwelled last before his departure, according to the form hereafter expressed in this act; which certificate or testimonial shall be written and delivered unto the said servant, and also registered by the parson, vicar, or curate of the parish where such master, mistress, or dame doth or shall dwell, taking for the doing thereof 2d., and not above; and the form thereof shall be as followeth:

None may depart forth of the city, town, parish, &c., without a testimonial.

"Memorandum, that A. B., late servant to C. D., of E., [husbandman, or, tailor, &c.] in the county, is licensed to depart from his said master, and is at liberty to serve elsewhere, according to the statute in that case made and provided. In witness whereof, &c. Dated the' [day, month, year, and place, &c., of the making thereof.]

The form of the testimonial.

Sect. 11. "That no person or persons that shall depart out of a service, shall be retained or accepted into any other service, without showing, before his retainer, such testimonial as is above remembered, to the chief officer of the town corporate, and in every other town and place, to the constable, curate, churchwarden, or other head officer of the same, where he shall be retained to serve,

No servant shall be retained without showing his testimonial.

**SILK WORK-
MEN'S DIS-
PUTES, &c.**

The master shall
pay 5*l.* that re-
taineth a servant
without a testi-
monial.

upon the pain that every such servant so departing without such certificate of testimonial, shall be imprisoned until he procure a testimonial or certificate, the which if he cannot do within the space of one-and-twenty days next after the first day of his imprisonment, then the said person to be whipped and used as a vagabond according to the laws in such cases provided; and that every person retaining any such servant without showing such testimonial or certificate as is aforesaid, shall forfeit for every such offence 5*l.*; and if any such person shall be taken with any counterfeit or forged testimonial, then to be whipped as a vagabond."

By the common law, if a man retained another man's servant, not knowing that he was retained with him, this ignorance excused him of the offence; but now the master may and must take notice whether such servant hath a testimonial or no; otherwise, if he hath no testimonial, such master is liable by the statute to the penalty of 5*l.* D. & St. 256.

IX. Labourers, &c., fleeing into another Shire.

[5 Eliz. c. 4, s. 47.]

Labourers, &c.,
fleeing into an-
other shire,
† 5*l.*

By the 5 Eliz. c. 4, s. 47, it is enacted, "that† if any servant or apprentice of husbandry, or of any art, science, or occupation aforesaid, unlawfully depart or flee into any other shire, that† it shall be lawful to the said justices of peace, and to the said mayors, bailiffs, and other head officers of cities and towns corporate, for the time being justices of peace there, to make and grant writs of *captias*, so many, and such as shall be needful, to be directed to the sheriffs of the counties, or to other head officers of the places whither such servants or apprentices shall so depart or flee, to take their bodies, returnable before them at what time shall please them; so that, if they come by such process, that† they be put in prison till they shall find sufficient surety well and honestly to serve their masters, mistresses, or dames, from whom they so departed or fled, according to the order of the law."

† 5*l.*

X. Disputes between Silk Masters and their Workmen.

[13 & 14 Car. II. c. 15; 20 Car. II. c. 6; 8 & 9 Wil. c. 36; 5 Geo. IV. cc. 66, 95.]

The punishment
of silk-winders
that embezzle
goods delivered
to them.

By the 13 & 14 Car. II. c. 15, s. 6, it is enacted, "that every silk winder and doubler, who shall at any time hereafter unjustly or deceitfully and falsely purloin, embezzle, pawn, sell, or detain, any part of silk delivered or to be delivered by any silk thrower or other person, to them or any of them, to wind or double, that in every such case and cases, as well the winder or journeyman so offending as the buyer and buyers, receiver and receivers of such silk, being thereof lawfully convicted, by confession of the party or parties so offending, or by one witness upon oath before one or more of the justices of peace of the county or liberty where the same offence or offences shall be committed; or if it be within any city or town corporate, before the mayor, bailiff, or chief officer of the said city or town corporate, who by force of this act are empowered and authorized to minister the same oath, and finally to hear and determine all and every the offences aforesaid, and to give and make to the party and parties grieved such recompense and satisfaction for such their damage and loss, and charges thereabouts, as by the said justice or justices, or chief officers, shall be ordered and appointed."

Proviso.

And, if unable to
make recom-
pense, further
punishment.

Sec. 7. "That no more damage be given or awarded, than the party grieved shall prove he is damfnied, and hath expended, in looking after the same; and if the party or parties so offending shall not be able or sufficient to make recompense or satisfaction for the said offence, nor do make recompense or satisfaction for the same offence or offences within fourteen days next after such conviction, in such manner and form as by the justice or justices, or chief

officers, shall be ordered and appointed, as aforesaid: then the party or parties so offending, for the first offence, shall be apprehended and whipped, or set in the stocks in the place where the offence is committed, or in some market town in the said county, near unto the place where the offence or offences aforesaid shall be committed, as shall be limited and appointed by the said justice or justices of the peace, or chief officers: and for the second offence, to incur the like, or such further punishment, by whipping, or being put in the stocks, as the said justice or justices of the peace, or chief officers, shall in their discretion think fit and convenient."

clothiers', &c. 13 Geo. III.

By the 20 Car. II. c. 6. s. 3, it is enacted, "that if any silk winder or doubler shall hereafter be found faulty, in unjustly, deceitfully, or falsely purloining, embezzling, pawning, selling, or detaining, any silk committed to his or their trust, that then any justice of peace, mayor, bailiff, or chief officer of any county, liberty, or corporation, shall immediately upon conviction, by confession of the party, or upon the oath of one witness before any of the said justice or justices of the peace, or other officer, commit to prison, or to the house of correction, the offender, till satisfaction be given to the party wronged, or punishment inflicted, as by an act of Parliament, intituled, 'An Act for Regulating the Trade of Silk-Throwing,' made this present Parliament, is directed and appointed; any thing in the said act contained to the contrary hereof in anywise notwithstanding."

Silk winders or doublers offending, to be committed to prison.

13 & 14 Car. 2, c. 13, s. 6.

And by the 8 & 9 Wil. c. 36. s. 6, it is enacted, "that all and every person or persons whatsoever, that shall embezzle, pawn, sell, or detain any of the silk so delivered, or after the same is wrought up, and also all and every receiver and receivers, buyer and buyers, or such as take to pawn any of the said goods, shall be subject and liable to all the penalties, forfeitures, and punishments contained, mentioned, and provided, in one act of Parliament made in the thirteenth and fourteenth years of the reign of King Charles the Second, intituled, 'An Act for Regulating the Trade of Silk-Throwing;' and in another act made in the twentieth year of the said King Charles the Second, intituled, 'An Act to regulate the Trade of Silk-Throwing.'"

Persons embezzling, &c., any silk delivered to be wrought up, &c., liable to the penalties in 13 & 14 Car. 2, c. 13, and 20 Car. 2, c. 6.

By the 5 Geo. IV. c. 66, s. 1, the 13 Geo. III. c. 68, 32 Geo. III. c. 44, and 51 Geo. III. c. 7, are repealed.

5 Geo. 4, c. 66, repeals 13 Geo. 3, c. 68; 32 Geo. 3, c. 44; 51 Geo. 3, c. 7.

And the 5 Geo. IV. c. 95, s. 1, repeals sects. 1 & 5 of the 13 Geo. III. c. 68; and so much of the 32 Geo. III. c. 44, as extends the provisions of the 13 Geo. III. c. 68.

5 Geo. 4, c. 95, repeals part of 13 Geo. 3, c. 68, and 32 Geo. 3, c. 44.

XI. Disputes between Clothiers and their Workmen.

[7 Jac. I. c. 7; 13 Geo. I. c. 33; 29 Geo. II. c. 23; 30 Geo. II. c. 12; 14 Geo. III. c. 25; 58 Geo. III. c. 31.]

By the 7 Jac. I. c. 7, s. 2, it is enacted, "that all and every such lewd person and persons, who shall at any time after twenty days next after the end of this session of Parliament, unjustly, falsely, or deceitfully convey away, embezzle, purloin, sell, or detain any part of the wool or yarn delivered by any clothier, maker of bays, says, or by any other person or persons making any such cloths or stuffs, to any such sorter, carder, kember, spinster, or weaver of wool or yarn; that in every such case and cases, as well the sorter, carder, kember, spinster, and weaver so offending, as the buyer and buyers, receiver and receivers of the same, knowing the same, being thereof lawfully convicted (by confession of the party or parties so offending, or by one sufficient witness upon oath before two or more of the king's majesty's justices of the peace of the same county or liberty where the same offence or offences shall be committed, or if it be within a town corporate, before the mayor, bailiff, or chief officer, and one more of the aldermen or most substantial persons of the said town, who shall by force of this act have full power and authority to minister the same oath, and finally to hear, end, and determine all and every the offences aforesaid; shall give and make

Embezzling goods, &c.

CLOTHIERS',
&c. DISPUTES.

The penalty of
a worker of wool
or yarn that doth
embezzle or de-
tain any part
thereof.

The punishment
of the receiver or
buyer of embez-
zled yarn.

Spinners of wool
in certain towns
in Essex.

Length of warp-
ing bars and
thrums to be used
in mixed, medley,
or white cloth.

Penalty.

Wool, &c., to be
given out by
weight.

Penalty.

Prosecutions,
how to be heard.

to the party or parties grieved, such recompense and satisfaction for such their damage and loss, as by the said justices or chief officers shall be ordered and appointed: and if the party or parties so offending shall not be thought, in the discretion of the said justices or chief officers, able or sufficient, or do not make recompense or satisfaction for the same offence or offences, in such manner and form as by the said justices or chief officers shall be ordered and appointed as aforesaid, then the party or parties offending, for the first offence, to be apprehended and whipped, or set in the stocks, in the place where the offence is committed, or in some market town in the said county, near unto the place where the offence or offences aforesaid shall be committed, and shall be limited and appointed by the said justices of the peace or chief officers: and for the second offence, to incur the like or such further punishment by whipping, or being put in the stocks, as the said justices of the peace or chief officers shall in their discretion think fit and convenient."

SecT. 3. "That all and every receiver and receivers, buyer and buyers, of any wool or yarn, embezzled or purloined, contrary to the meaning of this act, knowing the same to be embezzled or purloined, shall be subject to like punishment as by this act is inflicted or provided to be inflicted upon any such person so embezzling or purloining any such wool or yarn as aforesaid."

SecT. 4. "That all and every spinner and spinners of wool within the county of *Essex*, that shall receive any wool to be spun into yarn for any clothier or maker of bays, says, or other stuffs aforesaid, dwelling in the town of *Cogshall*, *Bocking*, *Braintree*, *Halstead*, *Wittam*, or *Colchester*, within the said county, and shall deliver back again the yarn made of the said wool by any shorter reel than hath been there usual of ancient time, that is to say, the said reel containing two yards about, shall be subject to like punishment as by this act is inflicted or provided to be inflicted upon any person or persons embezzling and purloining yarn as aforesaid."

By the 13 Geo. I. c. 23, s. 1, it is enacted, "that from and after the 1st day of June, 1727, it shall not be lawful for any maker of mixed, medley, or white cloth, to use or cause to be used, any bars, called warping bars, but only such which shall be of the measure and length hereafter appointed; that is to say, every long warping bar shall be in length three yards and three inches, and no more; and every round warping bar shall be four yards and four inches round, and no more; the said three inches on the long bar, and the said four inches on the round bar, being in lieu of the over measure usually allowed in cloths; and also that the thrums at the end of the warping bars shall not exceed eighteen inches in length; and if any maker of such cloth shall, after the said 1st day of June, use or cause to be used any warping bar of other length or measure than what is hereby appointed, or with thrums exceeding eighteen inches in length, every such maker of such cloth shall, for every such offence, forfeit and pay the sum of 10*l*."

SecT. 2. "That every maker of such cloth or goods mixed with wool shall give out all wool, yarn, or other materials for such manufacture by weight, after the rate of sixteen ounces to the pound, and shall receive back the same by the same weight, without fraud or deceit, upon pain of forfeiting and paying the sum of 5*l*. for every offence contrary to the true meaning of this act."

SecT. 4. "That all prosecutions for offences contrary to the true meaning of this act shall be heard and determined by two or more justices of the peace for the county, division, or place where such offence shall be committed, upon information given upon oath within three calendar months after such offence committed; and such justices are hereby authorized and required to examine, hear, and determine the same; and upon every conviction for such offence to issue their warrant or warrants to levy such pains or penalties by distress and sale of the offender's goods and chattels; one moiety thereof to the use of the informer or informers, and the other moiety to the use of the poor of the parish where such offence or offences shall be committed; and for want of a sufficient distress to commit the offender or offenders to the county gaol for any time not exceeding the space of three months, or until satisfaction be made by such offender or offenders."

SECT. 5. "That all disputes and demands relating to work, wages, or damages between any clothier or maker of woollen goods, or goods mixed with wool, and any weaver or other person or persons employed in such manufactures, shall be heard and determined by two or more justices of the peace for the county, division, or place where such dispute or demand shall arise, who are hereby required and authorized, upon complaint to them made, to summon the parties, and to hear and examine upon oath, and adjudge such satisfaction, and to give such costs and damages to the party aggrieved, as in their discretion shall seem reasonable, and to issue their warrant or warrants to levy such costs and damages by distress and sale of the goods and chattels of such person or persons, who shall refuse, for the space of ten days, to pay such costs and damages by them so adjudged; and for want of a sufficient distress, to commit the party to the county gaol or house of correction for any time not exceeding the space of three months, or until satisfaction shall be made by the party so offending."

CLOTHIERS'.
S.C. DISPUTES.
13 Geo. 1, c. 22.

How disputes
relating to wages
or damages shall
be heard.

Imprisonment.

SECT. 6. "That it shall and may be lawful for any person aggrieved by any order of such justices, to appeal to the justices of the peace at the next general quarter-sessions to be holden for the county, division, or place where such order shall be made, giving six days' notice in writing of such appeal; and the justices in their quarter-sessions are hereby authorized and required to hear and determine the matter of such appeal, and make such order, and to award such costs and damages, as to them in their discretion shall seem reasonable, and to levy, by their order or warrants, such costs and damages so awarded, by distress and sale of the goods and chattels of any person or persons who shall refuse to obey the same; and for want of sufficient distress, to commit the party to the county gaol or house of correction for any time not exceeding three calendar months, or until satisfaction shall be made by the parties offending; and such award or order of the justices at the quarter sessions shall be final; nor shall the proceedings of any justice or justices out of sessions, or of the justices in their sessions, in pursuance of this act, be liable to be removed by *certiorari* or other form or process of law; any thing in this present or any other act or acts contained to the contrary notwithstanding."

Appeal.

Certiorari.

SECT. 7. "That it shall and may be lawful to and for any one or more justice or justices of the peace, upon information to him or them given on oath, that any person or persons are (or are suspected to be) guilty of any of the ill-practices aforesaid, to issue out his or their warrant or warrants to any constable, tithingman, or other peace-officer or officers, or to any churchwarden or overseer, directing him or them in the day-time to enter into any house or houses, shop or shops, warehouse or warehouses, or other suspected place or places, to search for and examine all such bars and weights as shall be made use of for the purposes before-mentioned, by any such clothier or maker of woollen goods as aforesaid; and if any clothier or maker of woollen cloth shall interrupt any such officer or officers in the execution of his or their office or offices, that then such clothier or maker shall, for every such offence, forfeit and pay the sum of 5*l*."

Justices may
issue warrants to
search.

Penalty.

SECT. 9. "That from and after the said first day of June, 1727, every maker of mixed, medley, or white broad cloth, shall satisfy and pay to the weaver or weavers employed by such maker in or about the weaving the same, according to the number of yards that the said chains are laid on the warping bars, and not otherwise, on pain of forfeiting and paying for every offence contrary to the true meaning hereof, the sum of 5*l*."

How makers to
pay weavers.

Penalty.

By the 29 Geo. II. c. 33, s. 3, it is enacted, "that if any clothier, sergemaker, woollen or worsted stuff-maker, worsted or woollen yarn stocking-maker, or person concerned in making any *woollen clothes, serges, stuffs, worsted or woollen yarn stockings*, or any other person any ways concerned for himself or another in employing weavers, combers of jersey or wool, worsted combers, spinners, knitters, or other labourers in the *woollen manufactures*, shall pay or cause to be paid to any person or persons employed by him or them, his or their wages, or other price agreed on, or any part thereof, either

Masters paying
otherwise than in
money.

Penalty.

CLOTHIERS',
&c. DISPUTES.
29 Geo. 3, c. 33.

in goods or by way of truck; (a) bill or note, or in any other manner than in money, every person so offending shall forfeit and pay the sum of 20*l*."

Penalties, how
recovered, &c.

Sect. 4. "That the respective penalties and forfeitures incurred and made payable by this act, may be recovered by action of debt by any person who shall sue for the same, or may be levied upon conviction before any two or more justices of the peace for the county or place where the offence is committed, either by the confession of the party or parties, or upon the oath of one or more witness or witnesses, in case the same be not paid within fourteen days after such conviction, by distress and sale of the goods of the offender or offenders, by warrant under the hands and seals of such justices (which warrant or warrants such justices are hereby authorized to grant, and to administer such oath or oaths), returning the overplus, if any be, after all charges paid; and for want of sufficient distress, the said justices shall commit the offender or offenders to the house of correction for any time not exceeding three months, or until satisfaction shall be made by the parties offending."

Distress.

Imprisonment.

Sect. 5. "That if any of the penalties and forfeitures aforesaid be levied upon conviction before the justices of the peace, one moiety thereof shall be paid to the poor (b) of the parish where the offence was committed, and the other moiety to the informer."

Proviso.

Sect. 6. "That in case any action of debt shall be brought against any person for any of the penalties and forfeitures aforesaid, such person shall not be liable to any conviction before the justices of the peace for the same offence, whereby such penalties and forfeitures shall be incurred and made payable; nor in case of information laid before the justices, and conviction thereon, shall the person offending be liable to an action of debt for the penalties and forfeitures incurred and made payable by the same offence, for which such person hath been convicted before the justices."

Appeal.

Sect. 7. "That it shall be lawful for any person or persons who shall think him, her, or themselves aggrieved by any order of such justices, to appeal to the next general or quarter-sessions to be holden for the county, division, or riding, where such order shall be made; such person or persons so appealing, having first entered into a recognizance with sufficient security before such justices, to prosecute and abide by the order or orders that shall be made on such appeal, and giving eight days' notice in writing of such appeal to the party or parties in whose favour such order hath been made; and the justices in their general or quarter-sessions are hereby authorized and required to hear and determine the matter of such appeal, and to make such order, and to award such costs and damages, as to them in their discretion shall seem reasonable, and to levy by their order or warrants such costs and damages so awarded, by distress and sale of the goods and chattels of any person or persons who shall refuse to pay the same; and for want of sufficient distress, to commit the party or parties to the common gaol of the said county, division, or riding, for any time not exceeding three months, or until satisfaction shall be made by the party or parties offending; and such award or order of the said justices at their general or quarter sessions shall be final; and no proceedings of any such justice or justices out of sessions, or of the justices in their said general or quarter sessions, in pursuance of this act, shall be liable to be removed by *certiorari* or other form or process of law; any thing in this act or in any other act or acts contained to the contrary notwithstanding."

Recognizance.

Notice.

Certiorari.

Clothier not pay-
ing wages.

By the 30 Geo. II. c. 12, s. 4, it is enacted, "that if any clothier or maker of any mixed, medley, or white broad *cloth*, shall refuse or neglect to pay to the weaver or weavers employed by him or them his or their wages or price agreed on in money, within two days next after the work shall be performed

(a) The 58 Geo. III. c. 51, s. 1, however, after reciting the 29 Geo. II. c. 33, enacts, "that wages of workmen of the descriptions mentioned in any of the aforesaid acts, may be paid in bank-

notes, if the parties consent. See this stat. *ante*, 365.

(b) See the 58 Geo. III. c. 51, s. 3, *ante*, 365.

and delivered to such employer, or some person on his behalf (the same being demanded of such employer or person employed on his behalf; then and in every such case, every such clothier or person so offending shall, for every such offence, forfeit and pay the sum of 40s.; to be recovered in such manner and form, and by such ways and means, and to be paid, applied, and disposed of, as the several penalties and forfeitures incurred and made payable by the said recited act made in the twenty-ninth year of his present majesty's reign, are thereby directed and appointed to be recovered and applied."

**CLOTHIERS',
&c. DISPUTES.**
Penalty.

By the 14 Geo. III. c. 25, s. 1, it is enacted, "that if any picker, scribbler, spinner, or weaver, or other person or persons whatsoever, who shall be any ways employed in or about the making or manufacturing of *woollen cloth*, or in preparing materials for that purpose, shall not return all working tools or implements, wool, yarn, chain, woof, or abb, delivered out to be worked up and manufactured, and all such materials as aforesaid, wherewith he, she, or they shall be intrusted, or give a satisfactory account touching the same respectively, to his, her, or their employer, when thereunto required by the person or persons by whom he, she, or they shall have been so intrusted, or by his, her, or their known clerk or servant, or shall fraudulently steam, damp, or water the wool or yarn delivered to him, her, or them, to be worked up; or if any person or persons shall take off, cut, or pick out the list, forrel, or other mark of any piece of cloth, and shall be convicted of any such offence before some justice or justices of the peace for the county, division, liberty, or place where the person or persons so offending shall reside, either by the confession of the party or parties, or by the oath or oaths of one or more credible witness or witnesses; every such person so convicted shall be committed to the house of correction for the space of one calendar month."

Persons employ-
ed in woollen
manufactures,
not returning im-
plements.

Cutting, &c., off
list or mark of
cloth.

Punishment.

Sect. 2. "That if any person or persons so employed, and who shall have been intrusted with any tools, implements, wool, yarn, chain, woof, or abb, or other materials as aforesaid, shall not have delivered or accounted for the same, † shall abscond or cannot be found, or shall sell or otherwise dispose of the same or any part thereof; or if any person or persons shall fraudulently buy or receive such tools, implements, or materials of any person so employed or entrusted; or if any person or persons shall be suspected of, and charged on such suspicion with having embezzled and kept back, by means of fraudulently damping, steaming, or watering the wool and yarn delivered out to him, her, or them; or with having sold, bought, or otherwise received the same, or any part thereof, as aforesaid, and oath shall be made thereof respectively before one of his majesty's justices of the peace for the county, division, liberty, or place where any such offence was committed; such justice shall thereupon issue his warrant to any constable or constables, or other peace-officer or peace-officers, to enter into and search, in the day-time, the place of dwelling or residence of such person or persons so offending, and also such other house or place, houses or places of which the clothier, clerk, or servant as aforesaid, shall make oath that he, she, or they, have just cause to suspect (it appearing to the said justice to be reasonable suspicion) that the said working tools, or the said materials or some part or parts thereof, to † have been embezzled or kept back, sold, bought, or received, as aforesaid, may be secreted and lodged: and if, upon search, any of the said working tools, wool, yarn, chain, woof, or abb, or any cloth with the list, forrel, or other marks taken off, cut, or picked out, shall be found, the said constable or constables, peace-officer or peace-officers, shall seize the same, and apprehend the person or persons in whose custody or possession the same shall be found, and bring him, her, or them, before the same, or some other of his majesty's justices of the peace for the county, division, liberty, or place, aforesaid; and unless such person or persons, in whose custody the same shall be found, can give a good account how he, she, or they came by the same, to the satisfaction of such justice or justices; then, and in such case, such person or persons shall be thereof convicted, and suffer such punishment as is hereinbefore directed to be inflicted on persons not returning the tools or materials as aforesaid; and all such tools, wool, yarn, chain, woof, or abb, or such cloth as aforesaid, so seized, and not ac-

Absconding and
selling materials;
or fraudulently
buying, &c., tools.
† *Sic*.

Search-warrants.

† *Sic*.

Constables may
seize tools, &c.,
and bring per-
sons having in
custody before
justice.

CLOTHIERS',
&c. DISPUTES.
14 Geo. 3, c. 25.

Justice to allow
reasonable time
for producing
parties.

Justices may
cause houses to
be searched,

and goods to be
seized, and par-
ties brought be-
fore them.

Form of con-
viction;

counted for as aforesaid, shall, upon such conviction, be delivered over to the churchwardens or overseers of the poor of the parish where the same were seized, to be by them sold; and the monies arising by such sale, after defraying the expenses of such sale, shall be applied to the use of the poor of the said parish."

Sect. 3. "That in case the person or persons accused shall request of such justice to appoint a reasonable time to produce the person or persons of or from whom he, she, or they, bought or received the same, or some one or more credible witness or witnesses, to prove the sale or delivery thereof; then, and in such case, it shall and may be lawful for the said justice, and he is hereby authorized and required to appoint such reasonable time as aforesaid, and to issue out a summons to the constable, or other peace-officer, of the parish or place where such person or persons, or such witness or witnesses shall respectively reside, requiring him, her, or them, to appear before such justice, at such time and place as shall be so appointed by such justice, in order to be examined and give evidence, on oath, of the several matters aforesaid; but such person or persons, at the time of making such request, shall enter into a recognizance, with or without surety or sureties, as such justice shall think proper, for his, her, or their appearance before him at the time so to be set, or, for want of such recognizance as aforesaid, shall be committed until the time that shall be so set or appointed by the said justice for the appearance of such party or parties, witness or witnesses: and if at such appointed time such person or persons shall be convicted of any of the offences aforesaid; then, and in such case, he, she, or they shall suffer such punishment as is hereinbefore directed to be inflicted on persons not returning such tools or materials as aforesaid."

Sect. 4. "That it shall and may be lawful for any justice or justices, upon information made to him or them, on oath, by any credible person or persons, that there is just cause to suspect that any ends of yarn, wefts, thrums, short yarn, or other refuse of cloth, druggert, or of other woollen goods, or of goods mixed with wool (flocks and pinions only excepted), have been collected and received and are lodged or concealed in any dwelling-house, warehouse, outhouse, yard, or other place, by warrant under his hand and seal, to cause every such dwelling-house, warehouse, outhouse, yard, and other place to be searched in the day-time; and if such ends of yarn, wefts, thrums, short yarn, or other refuse of cloth, druggert, or goods mixed with wool (flocks and pinions only excepted) above the quantity of three pounds; shall be found therein, to seize the same; and also to cause the person or persons in whose house, warehouse, outhouse, yard, or other place, the same shall be found, to be brought before him, or some other justice or justices of the peace for the same county, division, liberty, or place, and on proof being made thereof upon oath before such justice or justices, that such ends of yarn, wefts, thrums, short yarn, or other refuse of cloth, druggert, woollen goods, or goods mixed with wool (flocks and pinions only excepted) were found in the dwelling-house, warehouse, outhouse, yard, or other place of such person or persons so brought before such justice or justices, such person or persons not exculpating him, her, or themselves to the satisfaction of such justice or justices, shall thereupon suffer such punishment as is hereinbefore directed to be inflicted on persons not returning the tools or materials as aforesaid, and the materials so found in the custody of such person or persons shall, by order of such justice or justices, be burnt, or otherwise destroyed."

Sect. 8. "That the justice or justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following; that is to say:—

"Be it remembered, that on the _____ day of _____, in the year of our Lord _____, A. B. is convicted before me [or, us], _____ of his majesty's justices of the peace in and for the county, division, liberty, or place [as the case may be], of having [here specify the offence, and the time and place when and where the same was committed]. Given under my hand and seal [or, our hands and seals, as the case may be], the day and year aforesaid."

Sect. 9. "That the justice or justices, before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be fairly wrote over upon parchment; and also to be returned to the next general quarter session of the peace to be held in and for the county, division, liberty, or place, where such conviction was made, to be filed by the clerk of the peace, and remain and be kept among the records of the said sessions."

CLOTHIERS', &c. DISPUTES. 14 Geo. 3, c. 25. to be wrote on parchment, and returned to quarter session.

Sect. 7. "That if any person or persons shall think him, her, or themselves aggrieved, by the judgment of any justice or justices before whom he, she, or they shall have been convicted of any of the offences aforesaid, such person or persons may appeal; and the said justice or justices is and are hereby required to make known to such person or persons, at the time of such conviction, his and their right under this act to appeal to the next general quarter sessions of the peace to be held for the county, liberty, division, or place where such conviction shall be made, the person or persons, at the time of such conviction, giving to such justice or justices notice in writing, signifying his, her, or their intention to appeal, and also entering into a recognizance at the time of such notice, with sufficient sureties, conditioned to try such appeal, and to abide the judgment of, and pay such costs as shall be awarded by the justices at such sessions; and the justices at such sessions are hereby authorized and required, upon due proof made of such notice, and of such recognizance being entered into, to hear and determine the matter of the said appeal in a summary way, and award costs to the party or parties appealing or appealed against, if the said justices shall think proper; but if upon such hearing the judgment of the justice or justices, before whom such appellant shall have been convicted as aforesaid, shall be affirmed; then, and in such case, such appellant shall suffer such punishment, in consequence of such conviction, as is hereinbefore directed to be inflicted on persons not returning the tools or materials as aforesaid."

Appeal.

Sect. 5. "That if, upon any information made upon oath before any justice or justices against any person or persons offending against this act, it shall appear to such justice or justices, that such person or persons so informed against hath or have been already before convicted of any offence against this act; then, and in such case, such justice or justices shall not proceed to convict such offender or offenders, but shall and may commit him, her, or them to the house of correction, there to remain until the next general quarter session of the peace to be held in and for the said county, division, liberty, or place, or until such offender or offenders shall have entered into a recognizance, with sufficient sureties, to appear at such sessions, and then and there to abide the order of the justices at such session; and such justice or justices shall and may bind over the informer to prosecute the said offender or offenders at the said sessions, and the justices at such sessions shall then and there proceed to inquire into and determine the same in a summary way; and if, upon such inquiry, such person or persons shall be found guilty of the said offence, the said justices shall, at their discretion, commit such offender or offenders to the house of correction for any time they think proper to direct, not exceeding three calendar months."

Proceedings against offenders, on second offence.

Sect. 6. "That if it shall appear to the justices, at their general quarter sessions, that such person or persons have or hath already been convicted, at some general quarter sessions, of any offence against this act; then, and in such case, the said justices shall, upon a like inquiry and conviction, in a summary way, direct the said offender or offenders to be committed to the house of correction, for any time not exceeding six calendar months, and also to be once publicly whipped at such time and place as such justices at their said quarter sessions shall direct."

Proviso.

Sect. 10. "That no person or persons shall be proceeded against for any offences against this act as aforesaid, unless information shall be made thereof, upon oath, before one or more justice or justices of the peace, for the county, division, liberty, or place, where such offence shall be committed, within three calendar months after such offence shall be committed; and no order made, touching or concerning any of the matters in this act contained, or any proceedings to be had touching the conviction or convictions of any offender or

Proceedings to be by information.

WOOLLEN,
LINEN, COT-
TON, IRON, &c.
FACTORIES.

offenders against this act, shall be quashed for want of form, or be removed or removable by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at *Westminster*."

XII. Disputes between Masters and Servants in the Woollen, Linen, Fustian, Cotton, and Iron Manufactures. And see further, Sect. XIV., post, 382.

[1 Anne, st. 2, c. 18; 13 Geo. II. c. 8; 58 Geo. III. c. 51.]

Embezzling
wool, &c.

By the 1 Anne, st. 2, c. 18, s. 1, it is enacted, that "if any person or persons employed in the working up the *woollen, linen, fustian, cotton, or iron* manufactures within this kingdom, shall embezzle or purloin any wefts, thrums, or ends of yarn, or any other materials of wool, hemp, flax, cotton, or iron, with which he, she, or they, is or shall be intrusted to work upon, or shall reel short or false yarn, being thereof lawfully convicted by the oath of one or more credible witness or witnesses, or by the confession of the party or parties accused of the same, before one justice of the peace of the said county where such offence shall be committed, shall forfeit double the value of the damages done, for the use of the poor of the said parish: and in case the offender or offenders so convicted as aforesaid, shall neglect or refuse to pay their forfeiture or forfeitures as aforesaid, that then it shall and may be lawful for the said justice to cause the said offender to be committed to the house of correction, until satisfaction shall be made: and in case it shall appear to the said justice, that the said offender is not able to make satisfaction, then the said offender shall be there publicly whipped, and kept to hard labour, for any time not exceeding fourteen days."

Penalty.

Punishment.

Buying, &c., such
goods.

Sect. 2. "That every person or persons buying or receiving any wefts, thrums, or ends of yarn, or any other materials of wool, hemp, flax, cotton, or iron, and being thereof lawfully convicted, in manner as aforesaid, shall suffer the like penalties and forfeitures, as one convicted, pursuant to this act, for purloining and embezzling of the said materials."

Penalty.

Labourers, &c., to
be paid in money.

Sect. 3. "That all payments and satisfactions hereafter to be made to any of the same labourers and workmen, for any work by them done in the same manufacture, shall be by the lawful coin of this realm, and not by any cloth, victuals, or commodities, in lieu thereof: and all wool delivered out to be wrought up, shall be so delivered, with declaration of the true weight thereof, on pain that every offender, in either of the said cases, shall forfeit and pay to such labourer or worker double the value of what shall be due for such work by him, her, or them done; and if any such labourer or worker shall be guilty of any such fraud or default in the work by him, her, or them done, then such labourer or worker shall allow and answer to the owner of such work double the damages thereby sustained."

What wool to be
delivered out by
weight.

Penalty.

How wages, &c.,
of labourers, may
be determined.

Sect. 4. "That all wages, demands, frauds, and defaults of labourers in the *woollen, linen, fustian, cotton, and iron* manufactures, for or concerning any work done in the same manufactures, shall and may be heard and determined by any two justices of the peace of the county, riding, division, city, or town corporate, where the matter in controversy ariseth, who are hereby empowered to summon and examine witnesses on oath concerning the same: but in case any person shall think himself aggrieved by any judgment or order of the said justices, it shall and may be lawful for such person to appeal against the judgment and order of the said two justices, to the justices of the peace in the general quarter sessions of the peace, which shall be held for the same county, riding, division, city, or town corporate, next after notice of such order of the said two justices; and the justices of the peace in the said general quarter sessions are hereby empowered to summon and examine witnesses on oath, and to hear and finally determine the matter of the said appeal; and in case the same justices, in the said general quarter sessions, shall give judgment

Appeal.

Final.

against such appellant, then the same justices shall award and order to the party, on whose behalf the same appeal is determined, such reasonable costs and charges to be paid by such appellant, in regard of such appeal, as to the same justices shall seem meet."

WOOLLEN,
LINEN, IRON,
&c., FAC-
TORIES.

And by the 13 Geo. II. c. 8, s. 1, it is enacted, "that if any person or persons who shall be hired or employed in the working up of any woollen, linen, fustian, cotton, or iron manufactures, shall, after the first day of May, 1740, purloin, embezzle, secrete, sell, pawn, exchange, or otherwise illegally dispose of any of the materials with which he, she, or they, shall be respectively intrusted to work up such woollen, linen, fustian, cotton, or iron manufactures, whether the same, or any part thereof, be or be not first wrought, made up, or manufactured, or shall reel short or false yarn, the person or persons so offending, and being thereof convicted in manner and form as is prescribed by the said recited act for the conviction of persons who shall embezzle or purloin any of the materials therein mentioned, he, she, or they, shall severally forfeit double the value of the damages, which the owner or owners of such materials, whether the same, or any part thereof, be or be not manufactured, shall respectively sustain thereby, together with such costs of prosecution for every such offence as shall be adjudged reasonable by the justice of the peace before whom such offender or offenders respectively shall be convicted; and in case immediate payment of the respective forfeitures, together with such costs of prosecution as aforesaid, shall be neglected or refused to be made, that then it shall and may be lawful to and for the same justice of the peace, before whom such conviction shall be made, to cause the said offender or offenders to be committed to the house of correction, to be there whipped and kept to hard labour for any time not exceeding fourteen days; and in case of a further conviction for or on a second or other subsequent offence of any person, for embezzling or purloining any of the materials in the said act mentioned, either before the same or any part thereof shall be wrought, made up, or converted into merchantable wares, the person or persons so offending shall, for every second or other subsequent offence, being thereof convicted in manner as is mentioned in the said recited act, forfeit four times the value of the damages, which the owner or owners of such materials, whether the same be or be not wrought, made up, or manufactured respectively, shall sustain thereby, together with such costs of prosecution as shall be adjudged reasonable by the justice before whom such offender or offenders shall be thereof respectively convicted; and in case immediate payment of the respective forfeitures, together with such costs of prosecution as aforesaid, shall be neglected or refused to be made, that then such justice, or any other justice of the peace for the county, riding, division, city, town, or place, where such offences shall be committed, shall cause the said offenders respectively to be committed to the house of correction, to be there kept to hard labour, for any time not exceeding three months, nor less than one month, as to such justice shall seem reasonable; and also during the time of such offender or offenders' respective commitment or commitments, shall cause the said offender or offenders to be publicly whipped in the market-town where such offender or offenders shall be respectively committed, at the market-place or cross of such town, once or oftener, as to such justice shall seem reasonable."

Costs.

Manufacturers
of woollen, &c.,
embezzling ma-
terials.

Penalty.

Punishment.

Second, &c.,
offence.

Penalty.

Punishment.

And by sect. 2, the buyers or receivers of the same shall be subject to the like penalties.

By the 58 Geo. III. c. 51, s. 3, it is enacted, "that from and after the passing of this act, if any person or persons shall incur, and be convicted in any penalty or penalties under any of the said acts, such penalty or penalties, in which any such person or persons shall be so convicted, instead of being applied as by the said acts, or any of them, is directed, shall be paid and applied, one moiety thereof to the informer, and the other moiety to the churchwardens and overseers of the poor, or in Scotland to the kirk session, of the parish within which the said offence shall have been committed, for the use of the poor of the said parish."

Receivers.

XIII. Disputes between Masters and Workmen in Leather Manufactures.

[13 Geo. II. c. 8; 58 Geo. III. c. 51.]

Workers in
leather em-
bezziing.

By the 13 Geo. II. c. 8, s. 4, it is enacted, "that if any person or persons, hired or employed, or to be hired or employed, in cutting, paring, washing, dressing, sewing, making up, or otherwise manufacturing of gloves, breeches, leather, skins, boots, shoes, slippers, wares, or other goods or materials to be made use of in any of the trades or employments, or in manner last mentioned, or in any branch or particular thereof, shall fraudulently purloin, embezzle, secrete, sell, pawn, or exchange, all or any part of the gloves, breeches, leather, skins, parings, or shreds of gloves or leather, or other materials with which he, she, or they, shall be intrusted to work up or manufacture, or shall purloin, embezzle, secrete, sell, pawn, or exchange any gloves, breeches, boots, shoes, slippers, or wares, when made, wrought up, or manufactured, or do or wilfully permit any other act, whereby to lessen the value of such, or any part of such gloves, breeches, leather, skins, parings, or shreds of gloves or leather, boots, shoes, slippers, or other wares, last particularized, either before or after the same shall be respectively so made into wares, and be thereof lawfully convicted upon the oath or affirmation of the master or owner of such goods or wares, or any other credible witness or witnesses, or by the confession of the person or persons charged with the fact, before one or more justice or justices of the peace for the county, riding, division, city, town, or place, where such offence shall be committed, or where the party or parties so charged shall reside or inhabit (which oath or affirmation such justice or justices is and are hereby empowered to administer and take), such justice or justices shall and may award the person or persons so offending, to make a reasonable and suitable recompense and satisfaction for every offence, to the parties respectively injured, for the damage by them sustained, so as the same do not exceed double the value of the gloves, breeches, leather, boots, shoes, slippers, wares, goods, or materials, by such offender or offenders so purloined or embezzled, secreted, sold, pawned, or exchanged; one half thereof to go to the party or parties grieved, and the other half thereof to go and be applied to the use of the poor of the parish or place where such offence shall be committed, together with the full charges attending such conviction, to be levied by warrant under the hand and seal, or hands and seals, of such justice or justices, by distress and sale of the offender's goods, rendering the overplus, upon demand, to the owner; but if such offender or offenders shall not have goods sufficient to answer for levying the forfeitures and the expenses and charges attending the premises, and shall also neglect or refuse immediately to pay the same, that then the said offender and offenders shall, by like warrant of such justice or justices last described, be, for every distinct offence, committed to the house of correction, or other public prison of such county, riding, city, town, or place, and there kept to hard labour for the space of fourteen days, and shall be there likewise whipped, in such manner as the said justice or justices shall order and direct; and in case also of a subsequent conviction for or on a second, or any other such like offence, the person or persons so offending for every second or other subsequent offence, being thereof convicted in manner before-mentioned, shall forfeit four times the value of the damages which the owner or owners of such materials, either before or after the same shall be respectively made up into wares, shall sustain thereby, together with such costs of prosecution as shall be adjudged reasonable by the justice before whom such offender or offenders shall be thereof respectively convicted; and in case immediate payment of the respective forfeitures, together with such costs of prosecution as aforesaid, shall be neglected or refused to be made, that then it shall and may be lawful to and for such justice to commit the offender or offenders last described to the house of correction, or other public prison, to be there kept to hard labour for any time not exceeding three months, nor less than one month, as to such justice shall seem reasonable; and also during the time of such offender or offenders'

Penalty.

How disposed of.

Distress.

Punishment.

Subsequent
offence.

Penalty.

respective commitment or commitments, shall cause the said offender or offenders to be publicly whipped in the market-town, where such offender or offenders shall be respectively committed, at the market-place or cross of such town, once or oftener, as to such justice shall seem reasonable."

Sect. 5. "That every person and persons who shall knowingly or willingly . . . buy or receive, accept or take, by way of pawn, pledge, or sale, or in any other manner, of or from any or either of the persons offending in either of the particulars in this act last mentioned, or of or from any other person or persons whatsoever (except of or from the person or persons in whom the property of such gloves, breeches, leather, boots, shoes, slippers, wares, goods, or other materials, shall be, at the time of such sale, pawn, or exchange), or offer so to do, such person or persons offending therein respectively, shall, for every offence, being convicted thereof in manner aforesaid, make such suitable and reasonable recompense and satisfaction, within two days next after the matter of fact shall from time to time be determined by any one or more justice or justices as aforesaid, upon hearing the same (he and they being hereby in this respect also empowered so to do), or else be subject to such distress, and for want of sufficient distress, to be liable to the like punishment as is hereby directed to be inflicted on such person or persons as shall purloin, embezzle, secrete, sell, pawn, or exchange any gloves, breeches, leather, boots, shoes, slippers, wares, goods, or other materials, or effects of that sort, as aforesaid, and so in like manner for any second and every other subsequent offence."

Sect. 6. "That all payments and satisfaction hereafter to be made to any such labourers, manufacturers, and workmen, employed as aforesaid, for any work by them done in and about such manufactures, shall be in and of the lawful coin of this realm only, and not by any victuals, goods, or commodities whatsoever, in lieu thereof (except at and by his and their request and consent only); and all goods and materials delivered out to be wrought up in the manufacture last mentioned, shall be delivered with a declaration at the same time, of the true weight, quantity, or tale thereof, on pain that every offender in either of the said cases shall forfeit and pay to such labourer, manufacturer, or worker, double the value of what shall be due for such work by him, her, or them done and performed; and if any such labourer, manufacturer, or worker, as is last described, shall be guilty of any fraud, abuse, neglect, or default in the work by him, her, or them undertaken to be done, then such labourer, manufacturer, or worker shall allow and answer to the owner of such worker double the damages thereby sustained."

Sect. 7. "That all wages, demands, frauds, abuses, neglects, and defaults of labourers, manufacturers, and workmen in the trades last above mentioned, for or concerning any work done in that manufacture, shall and may be heard and determined by any two justices of the peace of the county, riding, division, city, town, or place, where the matter in controversy shall happen or arise, who are hereby empowered to summon and examine witnesses on oath or affirmation, concerning the same, which oath or affirmation the said justices are to administer and take."

Sect. 8. "That all and every person or persons who shall . . . be first retained or employed in the making up of any gloves, breeches, boots, shoes, slippers, or other wares as aforesaid, for any one master, and shall neglect the performance thereof, either by procuring or permitting himself to be subsequently retained or employed by any other master or person whatsoever, before he or they shall have completed the work or service in, or to do which he or they was or were first and originally so retained or employed, and shall be first delivered to him or them; then, and in every such case, every person so offending, being thereof lawfully convicted by the oath or oaths, affirmation or affirmations, of one or more credible witness or witnesses, before one or more justice or justices of the peace, where the offence or offences shall be committed, the person or persons so convicted shall be sent to the house of

LEATHER
MANUFACTURERS.

13 Geo. 2, c. 8.
Receivers.

Recompense.

Distress.

Punishment.

Workmen to be
paid their wages
in money; (a)

Neglect.

Penalty.

Complaints, how
determined.

Journeymen to
perform business
engaged in.

Punishment.

(a) But see the 58 Geo. III. c. 51, *ante*, 365, *post*.

LEATHER
MANUFACTURERS.

correction, there to be kept to hard labour for any time not exceeding one month."

Appeal.
Notice.

Sect. 9. "That if any person or persons shall think him, her, or themselves aggrieved by any judgment or order of the said two justices, it shall and may be lawful for such person and persons to appeal from the judgment, order, and determination of the said two justices, to the justices of the peace, at their next general quarter sessions of the peace, to be held for the same county, riding, division, city, town, or place, where the matter in dispute shall arise (giving eight days' notice of such appeal to the person or persons against whom such appeal shall be brought and prosecuted); and such justices of the peace, at their next general quarter-sessions, are hereby empowered to summon and examine witnesses on oath or affirmation (which oath or affirmation they are hereby empowered to administer and take), and to hear and finally determine the matter of the said appeal, and at such quarter sessions shall award and order to the party on whose behalf such appeal is determined, such reasonable costs and charges to be paid by such appellant, or by the person or persons appealed against, in regard of such appeal, as to the said justices, or the major part of them, shall seem meet; but no order made by the said two justices of the peace as aforesaid shall be appealed from, quashed, or vacated for want of form only."

XIV. Disputes between Masters and Workmen in the Hat, Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, or Silk Manufactures. See ante, 378.

[13 Geo. I. c. 23; 22 Geo. II. c. 27; 14 Geo. III. c. 44; 15 Geo. III. c. 44; 17 Geo. III. c. 11, 55, 56; 58 Geo. III. c. 51; 5 Geo. IV. c. 96; 10 Geo. IV. c. 52.]

How disputes
relating to
wages or damages
shall be heard.

By the 13 Geo. I. c. 23, for the better regulation of woollen manufactures, and for preventing disputes among the persons concerned therein, and for limiting a time for prosecuting for the forfeiture appointed by an act of the 12th year of his majesty's reign, in case of payment of the workmen's wages in any other manner than in money, sect. 5, it is enacted, that all disputes and demands relating to work, wages, or damages between any clothier or maker of woollen goods, or goods mixed with wool, and any weaver or other person or persons employed in such manufactures, shall be heard and determined by two or more justices of the peace for the county, division, or place where such dispute or demand shall arise, who are hereby required and authorized, upon complaint to them made, to summon the parties, and to hear and examine upon oath, and adjudge such satisfaction, and to give such costs and damages to the party aggrieved, as in their discretion shall seem reasonable, and to issue their warrant or warrants to levy such costs and damages by distress and sale of the goods and chattels of such person or persons, who shall refuse, for the space of ten days, to pay such costs and damages by them so adjudged; and for want of a sufficient distress, to commit the party to the county gaol or house of correction, for any time not exceeding the space of three months, or until satisfaction shall be made by the party so offending. See the enactment in full, ante, p. 372.

In the case of *R. v. Heywood and another*, 1 M. & S. 624, it was determined that this sect. 5 of the 13 Geo. I. c. 23, for settling "disputes between clothiers or makers of woollen goods, and weavers, or persons employed in such manufactures," does not relate to demands against clothiers by the owner of a scribbling and carding-mill, for work done by him for the clothiers, in teasing, scribbling, carding, and stubbing the wool at his mill: therefore, the court refused a *mandamus* to two justices to hear and examine such demands. *Ld. Ellenborough*, C. J., said, "the penal provisions of this statute show that it is not applicable to the adjustment of debts between parties of equal rank in trade. 'Wages,' is the emphatical word denominating the character of the person who

is authorized to apply, and all the words seem to express the relation between master and servant." This view of the statute is confirmed by reference to other statutes on the same subject, especially the 14 Geo. III. c. 25, s. 14, *ante*, 375.

The 13 Geo. I. c. 23, s. 6, provides, that it shall be lawful for any person aggrieved by any order of such justices, to appeal to the justices of peace at the next general quarter sessions to be holden for the county, division, or place where such order shall be made, giving six days' notice in writing of such appeal; and the justices in their quarter sessions are hereby authorized and required to hear and determine the matter of such appeal; and to make such order, and to award such costs and damages as to them in their discretion shall seem reasonable; and to levy, by their order or warrants, such costs and damages so awarded, by distress and sale of the goods and chattels of any person or persons who shall refuse to obey the same; and, for want of sufficient distress, to commit the party to the county gaol or house of correction, for any time not exceeding three calendar months, or until such satisfaction shall be made by the parties offending; and such award or order of the justices at the quarter sessions shall be final; nor shall the proceedings of any justice or justices out of sessions, or of the justices in their sessions, in pursuance of this act, be liable to be removed by *certiorari* or other form or process of law. See the enactment in full, *ante*, p. 373.

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

Appeal to the
quarter sessions,
&c.

By the 22 Geo. II. c. 27, s. 1, it is enacted, "that if any person or persons whatsoever, who shall be hired or employed to make any *felt* or *hat*, or to prepare or work up any *woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, mohair, or silk* manufactures, or any manufactures made up of *wool, fur, hemp, flax, cotton, mohair, or silk*, or of any of the said materials mixed one with another, shall, from and after the 24th day of June, 1749, purloin, embezzle, secrete, sell, pawn, exchange, or otherwise unlawfully dispose of any of the materials with which he, she, or they shall be respectively intrusted, whether the same, or any part thereof, be or be not first wrought, made up, manufactured, or converted into merchantable wares, or shall reel false or short yarn, and shall be thereof lawfully convicted, by the oath, or (if the owner thereof be of the people called Quakers) solemn affirmation of the owner of such goods or materials, or by the oath or affirmation of any other credible witness or witnesses, or by the confession of the person or persons charged with such offence, before any one or more justice or justices of the peace of † county, riding, division, city, liberty, town, or place where such offence shall be committed, or where the person or persons so charged shall reside or inhabit (which oath or affirmation the said justice or justices is and are hereby empowered and required to administer), it shall and may be lawful to and for the said justice or justices, by warrant under his or their hand and seal, or hands and seals, to commit the person or persons so convicted to the house of correction, or other public prison of such county, riding, division, city, liberty, town, or place, there to be kept to hard labour for the space of fourteen days, and also to order the person or persons so convicted to be once publicly whipped at the market-place, or some other public place of the city, town, or place where such offender or offenders shall be respectively committed; and in case of a further conviction, in manner before prescribed by this act, for or upon a second or other subsequent offence of the same kind, it shall and may be lawful to and for the justice or justices before whom such conviction shall be had, to commit the person or persons so again offending to the house of correction, or other public prison as aforesaid, there to be kept to hard labour for any time not exceeding three months, nor less than one month, and also to order the person or persons so again offending, to be publicly whipped at the market-place, or some other public place of the city, town, or place where such offender or offenders shall be respectively committed, twice or oftener, as to such justice or justices shall appear reasonable; any thing in the said act of the first year of her said late majesty's reign, or in the said in part recited act of the thirteenth year of his present majesty's reign, to the contrary in anywise notwithstanding."

Embezzling, &c.
goods put out to
work.

† *Sic.*

† *Sic.*

Second offence.

The 17 Geo. III. c. 56, s. 1, after reciting the 22 Geo. II. c. 27, s. 1, enacts, "that, from and after the 1st day of July, 1777, so much of the said recited

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

17 Geo. 3, c. 56.

Second offence.

No person to be
convicted, unless
before two jus-
tices, &c.

act as prescribes what the punishment shall be in any of the cases before mentioned, or before whom such conviction shall be had, whether for a first offence, or a second or any subsequent offence, shall be repealed; and instead of inflicting the punishment so directed, the justices of the peace before whom the conviction shall be, shall commit the person convicted to the house of correction or other public prison, there to be kept to hard labour, in the case of a first offence, for any time not less than fourteen days, nor more than three months; and in the case of a second or any subsequent offence, for any time not less than three months, nor more than six months; and may likewise for the first, or for any subsequent offence, order the person convicted to be once publicly whipped, if such additional punishment shall by the said justice or justices be deemed proper."

SECT. 2. "That no person or persons, who shall be charged with any offence or offences against the said recited act of the 22d year of the reign of his late majesty King George the Second, shall be liable to be convicted, unless before two or more justices of the peace for the county, riding, division, city, liberty, town, or place where the offence shall be committed; any thing contained in the said recited act to the contrary hereof notwithstanding."

Buying or re-
ceiving materials
from workmen.

By the 22 Geo. II. c. 27, s. 2, it is enacted, "That if any person or persons shall buy, receive, accept, or take, by way of gift, pawn, pledge, sale, or exchange, or in any other manner whatsoever, of or from any person or persons, hired or employed to make any felt or hat, or to prepare or work up the woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, mohair, or silk manufactures, or any manufactures made up of wool, fur, hemp, flax, cotton, mohair, or silk, or of any of the said materials mixed one with another, any thrums or ends of yarn, or any other materials of wool, fur, hemp, flax, cotton, or iron, or any leather, mohair, or silk, whether the same, or any part thereof, be or be not first wrought, made up, or manufactured, knowing the person or persons of whom he, she, or they so buy, receive, accept, or take the said materials, to be so hired or employed as aforesaid, and not having first obtained the consent of the person or persons so hiring or employing him, her, or them, who shall offer to sell, pawn, pledge, exchange, or otherwise dispose of the said materials, or shall buy, receive, accept, or take, in any manner whatsoever, of or from any other person or persons whomsoever any of the said materials, whether the same be or be not first wrought, made up, or manufactured, knowing the same to be so purloined or embezzled; then, and in every such case, the person or persons so buying, receiving, accepting, or taking any such materials, being thereof lawfully convicted, in manner before prescribed by this act, for the conviction of persons purloining or embezzling the said materials, shall, for the first offence, forfeit the sum of 20*l.*; and in case the said forfeiture shall not be immediately paid, the justice or justices before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction, or other public prison as aforesaid, there to be kept to hard labour for the space of fourteen days, unless the said forfeiture shall be sooner paid; and if within two days before the expiration of the said fourteen days, the said forfeiture shall not be paid, the said justice or justices is and are hereby empowered and required to order the person or persons so convicted to be publicly whipped at the market-place, or some other public place of the city, town, or place where such offender or offenders shall be respectively committed, once or oftener, as to such justice or justices shall appear reasonable; and in case of a further conviction, for or upon a second or any other subsequent offence of the same kind, the person or persons so again offending, being thereof convicted in manner before prescribed by this act, shall, for every second or other subsequent offence, forfeit the sum of 40*l.*; and in case the said forfeiture shall not be immediately paid, the justice or justices, before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction, or other public prison as aforesaid, there to be kept to hard labour for any time not exceeding three months, nor less than one month, unless the said forfeiture shall be sooner paid; and if within seven days before the expiration of the time for which such offender or offenders

shall be so committed, the said forfeiture shall not be paid, the said justice or justices is and are hereby empowered and required to order such offender or offenders to be publicly whipped at the market-place, or some other public place of the city, town, or place where he, she, or they shall be respectively committed, twice or oftener, as to such justice or justices shall appear reasonable; and the said respective forfeitures of 20*l.* and 40*l.*, when recovered, after satisfaction shall have been made thereout to the party or parties injured, together with such costs of prosecution as shall be judged reasonable by the justice or justices before whom such conviction shall have been had, shall be equally distributed amongst the poor of the parish or place where the person or persons so convicted shall reside or inhabit; any thing in the said two first-mentioned acts, or either of them, to the contrary in anywise notwithstanding."

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

22 Geo. 2, c. 27.

By 17 Geo. III. c. 56, s. 3. "so much of the said recited act of the twenty-second of his late Majesty King George the Second, as enacts what the penalty or punishment shall be for such buying, receiving, accepting, or taking by way of gift, pawn, pledge, sale, or exchange, or in any other manner, as is described by the said act, in the terms aforesaid, and how such penalty shall be applied, and what punishment shall be inflicted in case of non-payment, shall be repealed; and instead thereof, the penalty for the first offence shall be any sum not more than 40*l.*, nor less than 20*l.*, as the justices before whom the conviction shall be shall judge to be most proper; and every such pecuniary penalty shall be applied, under the direction of the justices before whom the conviction shall be, in manner following; (that is to say): in the first place, the expenses of the prosecution shall be thereout defrayed; and then such satisfaction shall be made thereout to the party or parties injured, as the said justices shall think proper; and afterwards so much of the said penalty shall be paid to the informer or informers as such justices shall think fit, not exceeding, in any case, 10*l.*; and the remainder, if any, shall be paid and distributed to and amongst the poor of the parish, town, or place, where the conviction shall be, or for the use of such public charity or charities as such justices shall appoint: and if such pecuniary penalty as aforesaid shall not be paid on conviction, the said justices shall commit the person convicted to the house of correction, or other public prison, there to be kept to hard labour for any time not more than six months, nor less than three months, as the said justices shall think fit to direct, unless such pecuniary penalty shall be sooner paid; or the said justices may send the person convicted to the house of correction, or other public prison, there to remain for three days, exclusive of the day of commitment, with an order that within the said time the person so convicted shall be once publicly whipped at such market-place, or other public place as aforesaid."

So much of the said act, as orders the punishment for buying, receiving, &c. of any goods in the last-recited clause mentioned, repealed; and other punishments substituted instead thereof.

Penalty.

Sect. 4. "If any person or persons shall be brought before any justice of the peace, and shall be charged upon oath, or (being of the people called Quakers) upon solemn affirmation, off having been guilty of buying, receiving, accepting, or taking by way of gift, pawn, pledge, sale, or exchange, or in any other manner, as is described by the said recited act, in the terms aforesaid, and it shall appear to such justices that the person or persons so charged hath or have been already convicted of the like offence for which he, she, or they is or are then charged, that then such justices shall not proceed to convict such person or persons, but shall commit him, her, or them, to the house of correction, or some other public prison, there to remain until the next general or general quarter-sessions of the peace to be held in and for the county, riding, division, city, liberty, town, or place where the offence shall have been committed, or until such offender or offenders shall have entered into a recognizance to answer for such offence at the said next general or general quarter-sessions; and the justices in such general or general quarter-sessions are hereby authorized and required to take cognizance thereof, and to hear and determine the same; and if such person shall be convicted upon the oath, or (being of the people called Quakers) upon the affirmation of one or more credible witness or witnesses, the person so convicted shall forfeit and pay, for such offence, any sum not more than 100*l.* nor less than 50*l.*, as the said justices shall judge to be most proper; and every such penalty shall be applied and disposed of, under the direction of the said

How justices to proceed when offenders are brought before them for a second offence.
† *Sic.*

Any such offender convicted before the quarter sessions, shall forfeit from 50*l.* to 100*l.*;

BAT, FUR,
HEMP, &c.
MANUFACTURERS.

17 Geo. 3, c. 56.

or be committed,
&c.

Selling the same.

How justices to
proceed on
charge on oath of
suspected persons.

Provisions extended to tools
and implements.

Spooling work
wilfully;

justices in their general or general quarter-sessions, in such manner and proportions as the penalty hereinbefore imposed for the first offence of the like nature is by this act directed to be applied and disposed of; and if such penalty shall not be paid on conviction, the said justices shall commit the person so convicted to the house of correction, or other public prison, there to be kept to hard labour for any time not more than six months, nor less than three months, as the said justices shall in their discretion think fit, unless such penalty shall be sooner paid; or the said justices may send the person convicted to the house of correction, or other public prison, there to remain for three days, exclusive of the day of commitment, with an order that within the said time such person shall be once publicly whipped (a) at such market-place, or other public place as aforesaid."

Sect. 5. "If any person shall sell, pawn, pledge, exchange, or otherwise unlawfully dispose of, or offer to sell, pawn, pledge, exchange, or otherwise unlawfully dispose of, any such materials as aforesaid, whether wrought or unwrought, mixed or unmixed, knowing them to have been purloined or embezzled, every such person, lawfully convicted, shall be liable to the same punishment as he or she would be liable to by virtue of this act on being convicted of receiving purloined or embezzled materials, knowing them to have been purloined or embezzled."

Sect. 6. "That when any person or persons shall be brought or charged upon oath, before any two or more justices of the peace, by virtue of this act, with being suspected of, or with having purloined or embezzled, or with having received any such materials as aforesaid, whether the same be wrought or unwrought, mixed or unmixed, knowing the same to have been either purloined or embezzled, or received from some person or persons not entitled to dispose thereof, and it shall be made appear upon the oath, or (being of the people called Quakers) upon the affirmation, of one or more credible witness or witnesses, to the satisfaction of such justices, that such person or persons hath or have purloined or embezzled, or hath or have received any such materials as aforesaid, knowing the same to have been purloined or embezzled, or received from some person or persons not entitled to dispose thereof, it shall and may be lawful for such justices, or for the justices at their general or general quarter-sessions of the peace, and they are hereby respectively authorized and empowered (if they shall think fit) to convict such person or persons of having purloined or embezzled, or of having received such materials as aforesaid, knowing the same to have been purloined or embezzled, or received from some person or persons not entitled to dispose thereof, although no proof shall be given to whom such materials belong; and the person or persons so convicted shall, for every such offence, be subject to such and the like penalties and punishments, at the discretion of such justices respectively, as persons convicted of buying or receiving any such materials as aforesaid, knowing the same to have been purloined or embezzled, are by this act subject and liable to."

Sect. 16. "That every penalty or punishment directed by, or other provision contained in the said recited act, in respect to the said materials, so far as the said recited act is not varied by this act, and all the provisions in this act contained in respect to the said materials, shall extend and be applicable to any tool or tools, and implement or implements, with which any person or persons shall be entrusted for making, working up, or manufacturing, the said materials, and also to any drug or drugs, ingredient or ingredients, with which any person or persons shall be entrusted, for the purpose of dyeing, preparing, or manufacturing such of the aforesaid materials as are usually dyed, prepared, or manufactured, in the same manner as if the said tools and implements, drugs and ingredients, were particularly mentioned, both in the said recited act and in the preceding provisions of this act."

By the 12 Geo. I. c. 34, s. 2, it is enacted, that "if any wool-comber, weaver,

(a) By the 1 Geo. IV. c. 57, the punishment of whipping females is abolished. See *post*, *Whomen*.

servant, or person hired, retained, or employed in the art or mystery of a wool-comber or weaver shall wilfully damnify, spoil, or destroy (without the consent of the owner) any of the goods, wares, or work committed to his care or charge, or wherewith he shall be entrusted, every such offender, being thereof lawfully convicted as aforesaid, shall forfeit and pay to the owner or owners of such goods or wares so damnified, spoiled, or destroyed, double the value thereof, to be levied by distress and sale of the offender's goods and chattels, by warrant or warrants under the hands and seals of any two or more justices of the peace within their respective jurisdictions, and for want of sufficient distress, such justices shall commit the party or parties offending to the house of correction, there to remain and be kept to hard labour for any time not exceeding three months, or until satisfaction be made to the party or parties aggrieved for the same."

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

Spoiling work,
&c.

By the 22 Geo. II. c. 27, s. 12, it is enacted, "that the said several before-recited clauses in the said act, made in the twelfth year of his said late majesty's reign, and all the provisions, regulations, pains, penalties, and forfeitures, therein contained, shall . . . extend, and be construed, deemed, and adjudged to extend to journeymen dyers, journeymen hotpressers, and all other persons whatsoever, employed in or about any of the woollen manufactures of this kingdom, and also to journeymen, servants, workmen, and labourers, and all other persons whatsoever employed in the making of felts or hats, or in or about any of the manufactures of silk, mohair, fur, hemp, flax, linen, cotton, fustian, iron, or leather, or in or about any manufactures made up of wool, fur, hemp, flax, cotton, mohair, or silk, or of any of the said materials mixed one with another, in as full and ample manner as the said provisions, regulations, pains, penalties, and forfeitures, are by the said last-mentioned act declared to extend to the several and respective persons therein named; and the pains, penalties, and forfeitures, which shall be incurred by reason of any offence committed against the said last-mentioned act, by any person or persons employed or concerned in or about any of the said manufactures hereinbefore enumerated, shall be inflicted, levied, and recovered in the same manner as the pains, penalties, and forfeitures, contained in the said last in part recited act, are directed to be inflicted, levied, and recovered, upon and against the several and respective persons therein mentioned."

By 17 Geo. III. c. 56, s. 8, "the whole of the said last-recited clause shall be repealed; and that if any person, being hired, retained, or employed, to prepare or work up any materials, whether mixed or unmixed, for any master or masters, shall wilfully neglect or refuse the performance thereof for eight days successively; or having taken in any materials, whether mixed or unmixed, for manufacture, from one master, or two or more masters being copartners, shall afterwards take in any materials, whether mixed or unmixed, for manufacture, from any other master or masters; or shall procure, or permit himself or herself to be employed or retained in any other occupation or employment whatsoever, sooner than eight days before the completion of the work first taken; then, in every such case, such person being thereof lawfully convicted by the oath, or (being of the people called Quakers) affirmation, of one or more credible witnesses or witnesses, before two or more justices of the peace of the county, riding, division, city, liberty, town, or place, where the offence or offences shall be committed, shall be sent to the house of correction, or other public prison, there to be kept to hard labour for any time not exceeding three months, nor less than one month."

or neglecting to
perform work in
due time. (a)

Otherwise occu-
pled.

Punishment.

Sect. 9. "That . . . if any person shall receive any of the aforesaid materials in a fictitious name, in order to be manufactured; or if any person shall receive in his or her own name any of the said materials, in order to be manufactured by himself or herself, and afterwards deliver the same, or any part thereof, to any other person to be manufactured (without the consent of the owner thereof); or if any carrier, or other person employed to deliver

(a) See also the 4 Geo. IV. c. 34, s. 3, the provisions of which act are extended to the 17 Geo. III. c. 56, by the 10 Geo. IV. c. 52, *post*, 395.

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

17 Geo. 3, c. 56.
Receiving materials in false name, &c.
Carrier delivering materials to wrong consignee.
Owner of materials may enter shops, &c. of workmen.

any such materials to any workman, to be prepared or wrought up, shall designedly deliver the same to any other person than the person to whom such materials were ordered or intended to be delivered by the owner thereof; all and every person and persons offending in any of the cases aforesaid, shall, for every such offence, be liable to prosecution, in the same manner, and to the same punishment, as is by this act directed in respect to persons taking in any of the said materials in order to work up, and afterwards wilfully neglecting or refusing the performance of their work for the space of time aforesaid."

Sect. 15. "That it shall be lawful for the owner or owners of any such materials, from time to time, as occasion shall require, to demand entrance, and enter, at all seasonable hours in the day-time, into the shops or outhouses of any person or persons employed by him or them to work up any of the said materials, or other place or places where the work shall be carried on, and there to inspect the state and condition of such materials; and in case of refusal, by any such person or persons so employed, to permit such entrance or inspection, he, she, or they so refusing, shall forfeit and pay such sum of money, not exceeding 40s., nor less than 10s., as the justices before whom he, she, or they shall be convicted, shall think proper, to be recovered and applied in the same manner as is by this act directed for the misdemeanor of being in the possession of any such materials, without being able to account satisfactorily for such possession."

Materials not used to be returned.

Sect. 7. "That so much of the said recited act as allows twenty-one days after the preparing, working up, or manufacturing the said materials, for returning so much of the said materials as shall not be used in such preparing, working up, or manufacturing, and declares that the punishment for not so returning the said materials within the said time, shall be the same as under the said act is directed for purloining or embezzling, shall be repealed; and only eight days shall be allowed for returning the said materials in manner aforesaid; and the punishment for not returning them within the said eight days shall be the same as is by this act directed to be inflicted for purloining or embezzling."

Power of the justices.

Sect. 10. "That it shall and may be lawful for any two justices of the peace of any county, riding, division, city, liberty, town, or place, upon complaint made to them, upon oath, by any one credible person, or (being of the people called Quakers) upon solemn affirmation, that there is cause to suspect that any such purloined or embezzled materials, whether mixed or unmixed, wrought or unwrought, are concealed in any dwelling-house, outhouse, yard, garden, or other place or places, by virtue of a warrant under their hands and seals, to cause every such dwelling-house, outhouse, yard, garden, or place, to be searched in the day-time; and if any such materials, suspected to be purloined or embezzled, shall be found therein, to cause the same, and the person or persons in whose house, outhouse, yard, garden, or other place, the same shall be found, to be brought before any two justices of the peace for the same county, riding, division, city, liberty, town, or place; and if the said person or persons shall not give an account, to the satisfaction of such justices, how he, she, or they came by the same, then the said person or persons so offending, shall be deemed and adjudged guilty of a misdemeanor, and shall be punished in manner hereinafter mentioned, although no proof shall be given to whom such materials belong."

Peace-officers may apprehend suspected persons.

Sect. 11. "That every peace-officer, constable, headborough, or tithing-man, in every county, city, town corporate, or other place, where there shall be officers, and every beadle within his ward, parish, or district, and every watchman, during such time only as he is on his duty, shall and may apprehend, or cause to be apprehended, all and every person or persons who may reasonably be suspected of having or carrying, or any ways conveying, at any time after sunset and before sunrise, any of such materials suspected to be purloined or embezzled, and the same, together with such person or persons, as soon as conveniently may be, convey or carry before any two justices of the peace for the county, riding, division, city, liberty, town, or place, within which the suspected person or persons shall be apprehended; and if the person or persons so apprehended in conveying any such materials, shall not produce the party or parties duly entitled to dispose thereof, from whom he, she, or they

bought or received the same, or some other credible witness, to testify upon oath, or (being of the people called Quakers) upon solemn affirmation, to the sale or delivery of the said materials (which oath or affirmation respectively such justices are hereby empowered to administer), or shall not give an account, to the satisfaction of such justices, how he, she, or they came by the same; then the said person or persons so apprehended shall be deemed and adjudged guilty of a misdemeanor, and be punished in manner hereinafter mentioned, although no proof shall be given to whom such materials belong."

Sec. 12. "That in either of the two cases last before mentioned, when any person or persons, who shall be brought before any two justices of the peace, shall request of such justices to appoint a reasonable time to produce the person or persons duly entitled to sell or dispose of the same, of or from whom he, she, or they bought or received the same, or some one or more credible witness or witnesses to prove the sale or delivery thereof; then, and in such case, it shall and may be lawful for the said justices, and they are hereby authorized and required to appoint such reasonable time as aforesaid, and to issue out a summons to the constable or other peace-officer of the parish or place where such person or persons, or such witness or witnesses, shall respectively reside, requiring him, her, or them, to appear before two or more justices, at such time and place as shall be so appointed by such justices, in order to be examined and give evidence on oath, or (being of the people called Quakers) solemn affirmation, of the several matters aforesaid; but such person or persons, at the time of making such request, shall enter into a recognizance, with or without surety or sureties, as such justices shall think proper, for his, her, or their appearance before them, at the time so to be set, or, for want of such recognizance as aforesaid, shall be committed until the time that shall be set or appointed by the said justices for the appearance of such party or parties, witness or witnesses; and if, at such appointed time, such person or persons shall be convicted of any of the offences aforesaid, then, and in such case, he, she, or they, shall suffer such punishment as is hereinbefore directed to be inflicted on persons guilty of such offences."

Sec. 13. "That where any person or persons shall be convicted of a misdemeanor in either of the two cases last before-mentioned, it shall and may be lawful for the justices before whom the conviction shall be, to cause the said materials so found or seized as aforesaid, to be deposited in the hands of the churchwardens or overseers of the poor of the place where such materials shall be found or seized, or in any other convenient place, for any time not exceeding thirty days; and, in the meantime, to order the said churchwardens and overseers of the poor, or one of them, to insert an advertisement in some one or more of the public newspapers usually published or circulated in or near such place, or otherwise to cause notice to be given by some public crier, and by fixing on the church or chapel door notice describing such materials, and where the same are so deposited, to the end that persons having lost such materials, or any reputable person or persons in their behalf, may come and claim the same: and in case any person or persons can prove his, her, or their property in the said materials upon oath, or (being of the people called Quakers) upon his, her, or their solemn affirmation, to the satisfaction of any two justices of the peace for such county, riding, division, city, liberty, town, or place, then such justices shall order restitution of such materials to the owner or owners thereof, after paying the reasonable charges of removing, depositing, and giving public notice of the same; but if, before the end of the said thirty days, no person or persons shall come and prove his, her, or their property in such materials, nor any reputable person or persons on his, her, or their behalf, then the said justices shall order and direct the same to be sold for the best price that can reasonably be had, and after deducting such charges as aforesaid, together with the charges of sale, one moiety of the money arising from such sale shall be given to the person or persons, or either of them, who shall apprehend or prosecute the offender or offenders guilty of either of the misdemeanors aforesaid, as the said justices shall appoint; and the other moiety thereof, either to and amongst the poor of the parish, town, or place, where the conviction shall be, or to such public charity or charities as the justices convicting shall appoint."

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

17 Geo. 3, c. 54.

Justices may appoint time to produce persons entitled to dispose of materials, &c.

How materials to be disposed of, &c.

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

57 Geo. 3, c. 56.
Subsequent offences: penalties, &c., for.

Servant dyeing goods for his own profit.

Wages to be paid in money (a).

Journeyman hatter, &c. convicted of departing from service before hiring expired, or of not finishing work, &c. to enter into recognizance before appeal.

Sect. 14. Every person adjudged guilty of any of the misdemeanors in ss. 10—13 of this act, shall forfeit, for the first offence, 20*l.*; for the second, 30*l.*; and for every subsequent offence, 40*l.*; to be levied by distress and sale of the offenders' goods, by warrant of the convicting justices: of which forfeiture, one moiety shall be paid to the informer, and the other to the poor of the parish, or to such public charity as the justices appoint [but these penalties are now otherwise applied, see 58 Geo. III. c. 51, ss. 3, 4, *ante*, 365]. If no sufficient distress can be found, they may commit the offender to any gaol in their jurisdiction, for one month for the first, two for the second, and six for every subsequent offence.

Sect. 17. That "if any person hired, retained, or employed as a journeyman dyer, or as a servant or apprentice, in the dyeing of any felt or hat, or any woollen, linen, fustian, cotton, leather, fur, flax, mohair, or silk materials, whether the same shall be wrought or unwrought, or shall be mixed or unmixed with other of the said materials, shall, without the consent of the master, person, or persons, by whom such journeyman, servant, or apprentice, shall be hired, retained, or employed, wilfully dye any of the said materials, whether wrought or unwrought, or mixed or unmixed with other of the said materials, or, without such consent, shall wilfully receive any such materials as aforesaid, for the purpose of dyeing the same, whether the same shall be dyed or prepared for dyeing, he or she so guilty of either of the said offences shall, for the first offence, forfeit the sum of 10*s.*; and for the second offence, the sum of 20*s.*; and for every subsequent offence, the sum of 40*s.*; or if any person shall procure any such materials as aforesaid, to be dyed by any person so hired, retained, or employed as a journeyman, servant, or apprentice, without the consent of his or her master or employer, or shall offer any such materials to any such journeyman, servant, or apprentice, for the purposes aforesaid, he or she so offending, being thereof lawfully convicted, by the oath, or (being of the people called Quakers) affirmation, of one or more credible witness or witnesses, before two or more justices of the peace for the county, riding, division, city, liberty, town, or place, where the offence shall be committed, shall, for the first offence, forfeit the sum of 5*s.*; and, for the second offence, the sum of 20*s.*; and for every subsequent offence, the sum of 4*l.*; and each of the said penalties shall be paid to the informer or informers; and in case of non-payment on conviction, the person so convicted shall be committed, by the justices before whom the conviction shall be, to the common gaol or house of correction, to remain for any time not exceeding one month, as such justices shall order and direct."

By the 12 Geo. I. c. 34, s. 4, "if any clothier, serge-maker, woollen, or worsted stuff-maker, or person concerned in making any woollen cloths, serges, or stuffs, or any ways concerned in employing wool-combers, weavers, or other labourers in the woollen manufactory, as aforesaid, shall pay any person or persons employed by them their wages or other price agreed on, or any part thereof, either in goods or by way of truck, or in any other manner than in money as aforesaid, contrary to the true intent and meaning of this act; every person so offending shall also forfeit and pay the sum of 10*l.*; one moiety thereof to the informer, and the other moiety to the party or parties aggrieved, to be levied by distress and sale of the offender's goods as aforesaid, rendering the overplus (if any be) to the owner."

By the 17 Geo. III. c. 55, s. 3, "if any journeyman hatter, hat-maker, piece-master, servant, workman, or other person whatsoever, employed in the making or finishing of hats or felts, in any branch thereof, shall be convicted, in manner directed and described by the said last-mentioned act, of having kept up, acted in, made, entered into, signed, sealed, or having been knowingly concerned in any contract, covenant, or agreement, by-law, ordinance, rule, or order, of any club, society, or combination, by the said act declared to be illegal; or of presuming or attempting to put any illegal agreement, by-law, ordinance, rule, or order, in execution; or of departing from his service before the end of the time for which he was hired or retained; or of quitting or re-

(a) See, however, the 58 Geo. III. c. 51, s. 3, *ante*, 365.

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

17 Geo. 3, c. 46.

turning his work before the same shall be finished according to agreement; or of wilfully spoiling or destroying any goods, wares, or work; every such person so convicted, before he, she, or they shall be entitled to appeal to the justices at the quarter-sessions against any such conviction, or before the proceedings under such conviction shall be suspended, shall enter into recognizance, with two sufficient sureties, the principal in the sum of 10*l.*, and the two sureties in the sum of 5*l.* each, before one or more justice or justices of the peace for the county, city, or place where the offence shall be committed, for the appearance of the person so convicted at such quarter-sessions, to prosecute such appeal, and abide the judgment and determination of the justices at such general quarter-sessions (which recognizances the said justice or justices of the peace are hereby empowered and required to take); and the justices, in the said general quarter-sessions, are hereby authorized and required to hear and finally determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable, to either party: and if, upon the hearing such appeal, the judgment of the justices, before whom the appellant shall have been convicted, shall be affirmed, such appellant shall immediately be committed to the common gaol or house of correction, in pursuance of the original order of conviction, there to remain for the time which shall have been ordered and directed in such original order, and until the appellant shall pay the costs which shall be awarded against him by the justices in such general quarter-sessions of the peace on the confirmation of such order."

Sect. 6. "That no person or persons using or exercising the trade of a master hat-maker, hat-maker, or felt-maker, shall, during the time of his continuing to use or exercise such trade, be capable of acting as a justice of the peace in the execution of this or any other act relative to the punishment of any journeyman hat-maker or apprentice who shall offend against this or any other act made for the regulation of the said trade."

No master hat-maker, &c. to act as justice.

Sect. 8. "That it shall and may be lawful for any person convicted before one or more justice or justices of the peace, of any of the offences in this act mentioned, to appeal to the justices of the peace assembled at the next general quarter-sessions, to be held for the county, city, borough, town, liberty, or place wherein such conviction shall be made, giving immediate notice of the intention of bringing such appeal, and finding security, to the satisfaction of the justice or justices before whom such conviction shall have been made, for being present at such general sessions, or general quarter-sessions, and for prosecuting the said appeal with effect, and abiding the judgment of the court; and such justices, in such general sessions, or general quarter-sessions, shall finally hear and determine the matter, and shall have power to award reasonable costs to either party, as to them shall seem just; and if such conviction shall be affirmed at such sessions, such appellant shall be committed to the common gaol or house of correction for any time not exceeding three months."

Appeal.

Sect. 9. "That no action shall be brought against any justice of the peace, constable, headborough, or other officer, or against any other person or persons whomsoever, for any matter or thing whatsoever done or committed under, or by virtue, or in the execution of this act, unless such action shall be brought within three calendar months next after the doing or committing such matter or thing."

Limitation of actions against justices, &c.

Sect. 10. "That if any action or suit shall hereafter be commenced or prosecuted against any person or persons, for any thing done by virtue or in the execution of this act, such person or persons may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff shall become nonsuited, or suffer discontinuance, or forbear further prosecution, or if judgment shall be given for the defendant or defendants, such defendant or defendants shall recover double costs, for which he, she, or they shall have the like remedy as in cases where costs by law are given to defendants."

General issue.

Double costs.

By the 17 Geo. III. c. 56, s. 19, it is enacted, "that it shall and may be lawful to and for any one justice of the peace of any county, riding, division, city, liberty, town, or place, and he is hereby required, upon complaint to him made upon oath, or (if the person complaining be of the people called Quakers) solemn affirmation, of any offence committed against this act, within the same

Recovering penalties.

HAT, FUR,
HEMP, &c.
MANUFAC-
TURES.

17 Geo. 3, c. 56.

county, riding, division, city, liberty, town, or place, to issue his warrant for apprehending and bringing before any two or more justices of the peace of the same county, riding, division, city, liberty, town, or place, the person or persons charged with such offence; and the justices before whom such person or persons shall be brought, are hereby authorized and required to hear and determine the matter of such complaint, and to proceed to judgment and conviction thereupon."

Conviction.

Sect. 21. "That in respect to all offences which . . . shall be committed against the said recited act of the twenty-second of George the Second, so much of the said act of the twenty-third of George the Second as prescribes a form of conviction for offences against the said act of the twenty-second of George the Second, shall be repealed; and that . . . the justices before whom any offender shall be convicted of any offence, either against the said act of the twenty-second of George the Second, or varied by this act, or against this act, shall cause the conviction to be certified to the next general or quarter sessions of the peace to be held in and for the county, riding, division, city, liberty, town, or place, where such conviction was made, to be filed with the records of such sessions; and such conviction shall and may be drawn up and written on parchment, and certified in the following form of words, as far as the name of the person and the nature of the case will admit of; that is to say,

"Middlesex [or } Be it remembered, that on the . . . day of . . . in
any other place, as } the year of our Lord . . . , A. B. was convicted before
the case shall be } us, . . . of his majesty's justices of the peace in
to wit. } and for the said county of . . . [or, for the riding of
the said county of, or, for the city, liberty, town, or place aforesaid, in the said county
[as the case shall be] of . . .]. [Here specify the offence, and when and
where the same was committed.] Given under our hands and seals, the day and
year first above written."

It has been said, that it will not be sufficient merely to follow this form of conviction, there being a discretionary punishment as to some of the offences included in this act. See *Evans, Col. Stat.*, Part VI., Class XXXI., Vol. 8, p. 217. (1.) *Sed query.*

It has also been observed, where there is a discretion as to the duration of imprisonment to be suffered for want of distress, as in cases depending upon sect. 4, the general practice of the sessions has been to require such imprisonment to appear on the face of the conviction, and it seems to be necessary that it should so appear. Upon a conviction under that section, it may be proper, after stating the offence, to proceed as follows:—"And we do adjudge, that for the said offence, being his first offence, the said *John Smith* hath forfeited the sum of 40*l.*, which we direct shall be applied as follows; that is to say, that, in the first place, the sum of 5*l.*, being the expense of the prosecution, shall be paid to *A. B.*; that, in the next place, the sum of 15*l.* shall be paid to *C. D.*, being the party injured by the said offence, as a satisfaction for the same; and that afterwards the sum of 10*l.* shall be paid to *S. S.*, who informed us of the said offence; and that the sum of 10*l.*, being the remainder of the said penalty, shall be paid to the overseers of the poor of the town of *M.* aforesaid, where the said conviction is, to be distributed to and amongst the poor of the said town; and that, in case the said penalty shall not be paid on this conviction, the said *J. S.* shall be committed to the house of correction at . . . , in the said county, for six months, unless the said penalty shall be sooner paid." *Id. Burn, J.*, 24 *ed.*, Vol. V.

Appeal.

By the 17 Geo. III. c. 56, s. 20, it is enacted, "that if any person shall think himself or herself aggrieved by the order or judgment of any justices before whom he or she shall have been convicted of any of the offences in the said acts of the twelfth year of the reign of King George the First, and the twenty-second year of the reign of King George the Second, or in this act, such person may appeal, and the said justices are hereby required to make known to such per-

son, at the time of such conviction, his or her right to appeal, to the next general or general quarter-sessions of the peace to be holden for the county, riding, division, city, liberty, town, or place, where such conviction shall have been made (such person, at the time of such conviction, giving to such justices notice in writing of his or her intention to appeal, and also entering into a recognizance, at the time of such notice, with sufficient sureties, conditioned to try such appeal, and to abide the judgment of, and pay such costs as shall be awarded by, the justices at such sessions); but if the person giving such notice of appeal shall not, at the time of giving such notice, enter into such recognizance as aforesaid, then the justices, to whom such notice of appeal shall have been given, shall and may commit such person or persons to the house of correction, or other public prison, of such county, riding, division, city, liberty, town, or place, there to remain until the said next general or general quarter-sessions of the peace to be holden in and for such place, unless such recognizance shall be sooner entered into; and the said justices before whom such conviction shall have been made, or any other two or more justices of the same county, riding, division, city, liberty, town, or place, are hereby empowered and required to take, and the justices at such sessions are hereby authorized and required, upon due proof made of such notice of appeal, either by the acknowledgment of the justices to whom the same shall have been given, or otherwise, to hear and determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable, to be paid by either party: and if, upon the hearing of such appeal, the judgment of the justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall, within forty-eight hours next after the same shall be so affirmed, suffer such corporal punishment as shall have been directed to be inflicted upon him or her for the offence whereof he or she shall have been convicted, or shall immediately pay the sum which he or she shall have been adjudged to forfeit, together with such costs as the justices in the said sessions shall award to be paid by him or her, for defraying the expenses sustained by the defendant or defendants in such appeal; or, in default of making such payment, shall be committed to the common gaol, or house of correction, in the same manner, and for the same time, to be computed from the affirmance of such conviction, as shall be directed by the original judgment of conviction, unless the person or persons so convicted shall have been imprisoned under the original conviction, in which case the time for which such person or persons shall have been so confined shall be included in the order of confirmation."

Upon a conviction by two justices for an offence against the stat. 17 Geo. III. c. 56, if the justices at the time of such conviction make known to the person convicted his right to appeal, and he declines appealing, they need not proceed to inform him of the necessary steps to be taken by him in order to appeal. *R. v. The Just. of W. R. of Yorkshire*, 3 M. & S. 493. See, further, *Appeal*, Vol. I. p. 137.

By the 17 Geo. III. c. 56, s. 22, it is enacted, "that no order made touching or concerning any of the matters in this act contained, or any proceedings to be had touching the conviction of any offender or offenders against the said act of the twenty-second of George the Second, or this act, shall be quashed for want of form, or be removed or removable by *certiorari*, into his majesty's Court of King's Bench; and the justices before whom such convictions shall be had, shall cause the same, drawn up in the form aforesaid, to be fairly written upon parchment, and transmitted to the next general or general quarter-sessions of the peace to be held for the county, riding, division, city, liberty, town, or place, wherein such conviction was had, to be filed and kept amongst the records of the said general or general quarter-sessions; and in case the person or persons so convicted shall appeal from the judgment of the said justices, to the said general or general quarter-sessions, the justices on such general or general quarter-sessions are hereby required, upon receiving the said conviction, drawn up in the form aforesaid, to proceed to the hearing and determination of the matter of the said appeal, according to the direction of the said act, any law or usage to the contrary notwithstanding."

HAT, FUR,
HEMP, &c.
MANUFAC-
TURES.

17 Geo. 3, c. 56.

Conviction to be
filed.
Certiorari, &c.
Want of form.

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

This section takes away the writ of *certiorari* only from offences for the first time created by 22 Geo. II. c. 27, and does not apply to those created by 12 Geo. I. c. 34, and extended to the silk and cotton trades by 22 Geo. II. c. 27. This was decided in the case of *R. v. Rogers*, 5 B. & A. 773, where a rule had been granted for a *certiorari* to remove an order of sessions, confirming a warrant of distress, signed by two justices, for enforcing the payment of wages, from *Thomas Kay* to *William Rogers*, for work done by the latter in the silk manufacture and the cotton manufacture. The wages for which the warrant issued, had been previously paid in goods, which payment the justices altogether disallowed. The sessions, on appeal, considered the point of law so doubtful, that they confirmed the order, subject to a special case. The question was, whether the *certiorari* was taken away. *Et per Bayley, J.*, "By the 22 Geo. II. c. 27, a variety of specific offences were created; and that having been done, by the last clause the provisions of the 12 Geo. I. c. 34, were extended to the silk and cotton trade. Now, I think that the best construction we can give to the 17 Geo. III. c. 56, s. 22, on which the question turns, will be to hold, that it extends only to the offences created for the first time by the 22 Geo. II. c. 27. If so, the writ of *certiorari*, in the present case, is not taken away." And the writ was granted.

False reeling of
yarn.

By the 14 Geo. III. c. 44, s. 1, so much of the 22 Geo. II. c. 27, as relates to the punishment for reeling false and short yarn is repealed.

Sect. 2. "That, from and after the passing of this act, if any person or persons shall reel false or short yarn, and shall be thereof lawfully convicted by the oath of the owner of such yarn, or in case such owner is one of the people called Quakers, then upon the solemn affirmation of such owner, or of any other credible witness or witnesses, or by the confession of the person or persons charged with such offence, before any one or more justice or justices of the peace of the county, riding, division, city, liberty, town, or place where such offence shall be committed, or where the person or persons so charged shall reside or inhabit (which oath such justice or justices is and are hereby empowered and required to administer), shall, for the first offence, forfeit and pay any sum not exceeding 20s., nor less than 5s.; and for the second offence, any sum not exceeding 5*l.*, nor less than 40s.; and for the third and every other offence, it shall and may be lawful to and for such justice or justices of the peace to commit the person or persons so convicted to the house of correction, or other public prison of such county, riding, division, city, liberty, town, or place, there to be kept to hard labour for the space of one calendar month, and also to order the person or persons so convicted to be once publicly whipped at the nearest market-town to where the offence was committed, and upon a market day; all which penalties and forfeitures shall go to the party aggrieved."

Sect. 3. "That the justice or justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following; that is to say,

Form of conviction.

"Be it remembered, that on the day of , in the year of our Lord , A. B. is convicted before me, , [or, us], of his majesty's justices of the peace for , [specifying the offence, and the time and place when and where the same was committed, and also specifying that it is the first, second, or third offence, against this act, as the case shall be.] Given under my hand and seal [or, our hands and seals], the day and year aforesaid."

Which conviction the said justice or justices shall cause to be fairly wrote on parchment, and returned to the next general quarter-sessions of the peace for the county, riding, division, city, liberty, town, or place where such conviction was made, to be filed by the clerk of the peace, and remain and be kept among the records of such county, riding, division, city, liberty, town, or place."

Appeal.

Sect. 5. "That if any person or persons, who shall be convicted as aforesaid, shall be desirous of appealing to the next general or quarter-sessions of the peace to be holden for the county, riding, city, or place, wherein the cause of complaint shall arise, such person may, at the time of such conviction, enter into a sufficient recognizance conditioned to try such appeal, abide the order

Recognizance.

of, and pay such costs as shall be adjudged by the justices at such sessions; and the said justices, at such sessions, shall and are hereby authorized and required to take cognizance of such appeal, and may affirm such conviction, and award such costs, as they the said justices shall think proper; and in case the same are not paid, according to the order of the said justices, such costs may be recovered by distress and sale of the goods and chattels of the person who ought to pay the same, by warrant under the hand and seal of any justice of the peace for the county, riding, division, city, liberty, town, or place where such person shall be or reside; and if no goods and chattels belonging to such person can be found, sufficient to pay the costs, and the charges of making such distress, the said justices may cause the person to be committed to the common gaol of such county, riding, division, city, liberty, town, or place, there to remain, without bail or mainprize, for the space of three calendar months; and the determination of the said sessions shall be final, binding, and conclusive, to all intents and purposes: and no order made concerning any of the matters aforesaid, or any other proceedings to be had touching the conviction or convictions of any offender against this act, shall be quashed or vacated for want of form, or be removed by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

By the Oath of the Owner of the Yarn—This is a singular instance of a conviction on the oath of a person doubly interested,—namely, both as owner of the goods, and as entitled to the whole forfeiture.

(He shall for the first Offence)—The word *he* is wanting in the act, to make up the sense.

May affirm such conviction—By the word *affirm* being mentioned, and not the word *quash* also, it may be doubted whether the sessions hath hereby sufficient power given to quash the conviction.

By the 15 Geo. III. c. 15, "that from and after the passing of this act, the several pecuniary penalties inflicted by the said act upon persons who shall be convicted of reeling false or short yarn, together with the costs and charges attending such prosecutions, shall (in case the same are not paid according to the order of the justice or justices before whom such person or persons shall be so convicted) be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant or warrants under the hand and seal, or hands and seals, of the justice or justices before whom such offender or offenders shall be so convicted, together with the costs and charges of making such distress and sale; and if no goods and chattels belonging to such offender or offenders can be found sufficient to answer the said penalties, together with the costs and charges of such distress and sale, then such justice or justices shall and may cause such offender or offenders to be committed to the common gaol, or house of correction, of the county, riding, division, city, liberty, town, or place, where such offence shall be committed, there to remain, without bail or mainprize, for the space of one calendar month, unless such penalties and forfeitures, and the reasonable charges of such distress and sale, shall be sooner paid and satisfied."

With respect to the several counties of *York, Lancaster, and Chester*, additional regulations are made by the 17 Geo. III. c. 11, which enacts that committees of the manufacturers from time to time shall appoint inspectors, who shall examine the reels and yarn, and cause offenders to be convicted; and for the expenses thereof, a fund shall be established out of the drawbacks of the duty on soap allowed to the manufacturers for soap consumed in the woollen manufactures. Which regulations, being of considerable length, and only concerning the said three counties, it is thought sufficient to refer to the statute itself.

By the 10 Geo. IV. c. 52, the 4 Geo. IV. c. 34, relative to the powers of justices in determining complaints between masters and servants, is extended "to all persons engaged, whether as masters, servants, apprentices, or otherwise, in the several manufactures, trades, and occupations," mentioned in the 17 Geo. III. c. 56, *ante*, 385, &c. relative to silk, &c.

HAT, FUR,
HEMP, &c.
MANUFACTURERS.

Costs.

Recovering penalties for reeling false or short yarn.

Regulations in the counties of York, Lancaster, and Chester.

10 Geo. 4, c. 52, extends the 4 Geo. 4, c. 34, to 17 Geo. 3, c. 56.

5 Geo. 4, c. 96,
repeals 39 & 40
Geo. 2, c. 106,
41 Geo. 3, (U. K.)
c. 38, 44 Geo. 3,
c. 87.

By the 5 Geo. IV. c. 96, s. 1, the 39 & 40 Geo. III. c. 106, 41 Geo. III. (U. K.) c. 38, and 44 Geo. III. c. 87, regulating disputes between masters and workmen in the cotton manufacture, are repealed, save and except in as far as the same may have repealed any prior acts or enactments.

As to the offence of destroying woollen and silk manufactures, &c., and the implements, &c., used therein, see *Malicious Injuries to Property*, Vol. III.

XV. Disputes between Masters and Workmen in the Bone and Thread-Lace Manufactory.

[19 Geo. III. c. 49.]

Wages to be paid
in money.

By the 19 Geo. III. c. 49, s. 1, "all lace merchants and dealers in lace, and all other persons who shall employ any person or persons in the making of bone or thread lace, or who shall buy any bone or thread lace of the maker or makers thereof, shall and are hereby required to pay such person or persons for their labour, and for all the lace so bought of them, in money only, and not with goods, or by way of truck, or in any other manner whatsoever, either in the whole or in part; any usage or custom to the contrary hereof notwithstanding."

Sect. 2. "That, if any lace merchant or dealer in lace, or other person, shall . . . pay any person or persons employed in making bone or thread lace, in the whole or in part, for their labour, or for the purpose of any bone or thread lace, with goods, or by way of truck, or in any other manner than with money only, every such lace-merchant, dealer in lace, or other person, so offending, shall, for every such offence, forfeit and pay the sum of 10*l.*, to be levied and recovered by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of any one justice of the peace, within the county, city, or place, where such offence shall be committed; rendering the overplus, if any, to the owner or owners of such goods and chattels, after deducting the reasonable charges of such warrant, distress, and sale; and such forfeitures, when recovered, shall be paid to the party or parties aggrieved; and for want of sufficient distress, such justice shall, and is hereby authorized and required, to commit the offender to the common gaol, prison, or house of correction, there to remain, without bail or mainprize, for the space of six calendar months, unless such penalty, and the charges attending the recovery thereof, shall be sooner paid and satisfied."

How to be recovered.

Sect. 3. "That . . . if any sum or sums of money shall be due and owing to any person or persons employed in the making of any bone or thread lace, for his or her labour, or for the purchase of any such lace, every such person shall and may apply to any justice of the peace for the county, city, or place, where the cause of complaint shall arise; and in case it shall, upon the oath of the party complaining (which oath such justice is hereby empowered to administer), appear to such justice that such money is due and owing, as aforesaid, then such justice shall and is hereby authorized and required to cause the same to be levied and recovered in the same manner as the forfeiture hereinbefore imposed is directed to be levied and recovered."

Appeal.

Sect. 4. "That, if any person shall think himself or herself aggrieved by any thing done in pursuance of this act, it shall and may be lawful for any such person to appeal to the justices of the peace at any general quarter sessions to be holden for the county, city, or place, where the act, order, or proceeding, appealed against shall be made or done, within six calendar months next after the making or doing thereof, the person appealing first giving fourteen days' previous notice to the person or persons in whose favour

(a) It seems the 58 Geo. III. c. 51, *ante*, 365, does not apply to this statute.

such act, order, or proceeding, shall be made or done, of his or her intention to bring such appeal; and the justices at such quarter sessions are hereby authorized and required to hear and determine the matter of every such appeal, and to make such order therein, and to award such costs to either party as they shall think proper, and by their order or warrant to levy the costs which shall be so awarded by distress and sale of the goods and chattels of the person or persons liable to pay the same, rendering the overplus, if any, to the owner or owners of such goods and chattels, after deducting the reasonable charges of such distress and sale; and the determination of the justices in the said quarter sessions shall be final, binding, and conclusive upon all the parties."

**BONE AND
THREAD-LACE.**
19 Geo. 3, c. 49.

XVI. *Disputes between Masters and Workmen in the Manufactures of Clocks and Watches.*

[27 Geo. II. c. 7.]

The 27 Geo. II. c. 7, s. 1, enacts, "that if any person or persons whatsoever, who shall be hired or employed by any person or persons practising the trade or trades of clock-making or watch-making, or any part or branch, or parts or branches of such trade or trades, to make, finish, alter, repair, or clean, any clock or clocks, watch or watches, or any part or parts of a clock or clocks, watch or watches, or be intrusted by any person or persons practising the said trade or trades, with any gold, silver, or other metal or material to be, or that shall be, in the whole or in part wrought or manufactured for any part or parts of a clock or clocks, watch or watches, or any diamond or other precious stone to be, or that shall be, set or fixed in or about any clock or clocks, watch or watches, shall purloin, embezzle, secrete, sell, pawn, exchange, or otherwise unlawfully dispose of any clock or watch, or any part or parts of any clock or watch, or any gold, silver, or other metal or material, or any part thereof, or any diamond or other precious stone, with which such person or persons shall be intrusted by any person or persons practising the said trade or trades, or any part or branch, or parts or branches of such trade or trades, and shall be thereof convicted by the oath of the owner of such goods, or by the oath of any other credible witness or witnesses, or by the confession of the person or persons charged with such offence, before any one or more justice or justices of the peace of the county, riding, division, city, liberty, town, or place, where such offence shall be committed, or where the person or persons so charged shall reside or inhabit (which oath the said justice or justices is and are hereby empowered and required to administer), every such offender shall, for the first offence, forfeit 20*l.*; and in case the said forfeiture shall not be forthwith paid, the justice or justices before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction or other public prison of such county, riding, division, city, liberty, town, or place, there to be kept to hard labour for the space of fourteen days, unless such forfeiture shall be sooner paid; and if, within two days before the expiration of such fourteen days, such forfeiture shall not be paid, the said justice or justices is and are hereby empowered to order the person or persons so convicted to be publicly whipped at the market-place, or some other public place of the city, town, or place, where such offender or offenders shall be respectively committed; and in case of a further conviction in manner before prescribed by this act, for or upon a second or other subsequent offence of the same kind, the person or persons so again offending, being thereof convicted in manner aforesaid, shall, for every second or other subsequent offence, forfeit 40*l.*; and in case the said forfeiture shall not be forthwith paid, the justice or justices before whom such conviction shall be had, shall commit the person or persons so again offending to the house of correction or other public prison as aforesaid, there to be kept to hard labour for any time not exceeding three months, nor less than one month,

Workmen em-
bezzling mate-
rials put out to
work.

Oath.

First offence.

Second offence.

CLOCKS AND
WATCHES.

27 Geo. 2, c. 7.

Persons know-
ingly receiving
the same.

First offence.

Second offence.

Appeal.

unless the said forfeiture shall be sooner paid; and if within seven days before the expiration of the time for which such offender or offenders shall be committed, the said forfeiture shall not be paid, the said justice or justices is and are hereby empowered to order the person or persons so again offending to be publicly whipped at the market-place, or some other public place of the city, town, or place, where such offender or offenders shall be respectively committed, twice or oftener, as to such justice or justices shall appear reasonable."

Sect. 2. "That if any person or persons shall buy, receive, accept, or take by way of gift, pawn, pledge, sale, or exchange, or in any other manner whatsoever, of or from any person or persons whomsoever, any clock or watch, or any part or parts of a clock or watch, or any gold, silver, or other metal or material as aforesaid, whether the same, or any part thereof, be or be not wrought or manufactured, or any diamond, or other precious stone, which shall have been intrusted with any person or persons hired or employed as aforesaid, by any person or persons practising the said trade or trades, he, she, or they, so buying, receiving, accepting, or taking, any such goods, materials, or effects, knowing the same to be so purloined or embezzled, being thereof lawfully convicted in manner before prescribed, for the conviction of persons purloining or embezzling the said goods, materials, or effects, shall, for the first offence, forfeit 20*l*.; and in case the said forfeiture shall not be forthwith paid, the justice or justices, before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction, or other public prison as aforesaid, there to be kept to hard labour, for the space of fourteen days, unless the said forfeiture shall be sooner paid; and if, within two days before the expiration of the said fourteen days, the said forfeiture shall not be paid, the said justice or justices is and are hereby empowered and required to order the person or persons, so convicted, to be publicly whipped at the market-place, or some other public place of the city, town, or place, where such offender or offenders shall be respectively committed, once or oftener, as to such justice or justices shall appear reasonable; and in case of a further conviction for or upon a second or any other subsequent offence of the same kind, the person or persons so again offending, being thereof convicted in manner before prescribed, shall, for every second or other subsequent offence, forfeit 40*l*.; and in case the said forfeiture shall not be forthwith paid, the justice or justices, before whom such conviction shall be had, shall commit the party or parties so convicted to the house of correction, or other public prison as aforesaid, there to be kept to hard labour for any time not exceeding three months, nor less than one month, unless the said forfeiture shall be sooner paid; and if, within seven days before the expiration of the time for which such offender or offenders shall be so committed, the said forfeiture shall not be paid, the said justice or justices is and are hereby empowered and required to order such offender or offenders to be publicly whipped at the market-place, or some other public place of the city, town, or place, where such offender or offenders shall be respectively committed, twice or oftener, as to such justice or justices shall appear reasonable; and the said respective forfeitures, when recovered, after satisfaction shall have been made thereof to the party or parties injured, together with such costs of prosecution as shall be judged reasonable by the justice or justices before whom such conviction shall have been had, shall be paid and applied to and for the use of the poor of the parish or place where the person or persons so convicted shall reside or inhabit."

Sect. 3. "That if any person convicted as aforesaid, of purloining, embezzling, secreting, selling, pawning, exchanging, or otherwise unlawfully disposing of, or of buying, receiving, or taking to pawn any of the goods, materials, or effects hereinbefore mentioned, shall think himself or herself aggrieved by the judgment of the justice or justices before whom he or she shall have been convicted, such person shall have liberty to appeal to the justices at the next general or quarter-sessions of the peace, which shall be held for the county, riding, division, city, liberty, town, or place, where such judgment shall have been given; and that the execution of the said judgment shall in such case be suspended, the person so convicted entering into a recognizance at the time

of such conviction, with two sufficient sureties, in double the sum which such person shall have been adjudged to forfeit, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the justices in the said general or quarter-sessions; which recognition the said justice or justices before whom such conviction shall be had, is and are hereby empowered and required to take; and the justices in the said general or quarter-sessions are hereby authorized and required to hear and finally determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable, to be paid by either party; and if, upon the hearing of the said appeal, the judgment of the justice or justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall immediately pay the sum which he or she shall have been adjudged to forfeit, together with such costs as the justices in the said general or quarter-sessions shall award to be paid by him or them for defraying the expenses sustained by the defendant or defendants in such appeal; or, in default of making such payments, shall suffer the respective pains and penalties by this act inflicted upon persons respectively who shall neglect to pay, or shall not pay the respective forfeitures by this act imposed upon such persons respectively, who shall be convicted of purloining, embezzling, secreting, selling, pawning, exchanging, or otherwise unlawfully disposing of any of the goods, materials, or effects hereinbefore mentioned, or of persons buying, receiving, or taking to pawn any such goods, materials, or effects."

Sect. 4. "That the justice or justices of the peace before whom any person shall be convicted, in manner prescribed by this act, of purloining, embezzling, secreting, selling, pawning, exchanging, or otherwise unlawfully disposing of, or of buying, receiving, or taking to pawn, any of the goods, materials, or effects aforesaid, shall cause such respective conviction to be drawn up in the form and words following: that is to say,—

"Middlesex } Be it remembered, that on the day of , in the
to wit. } year of his majesty's reign, A. B. was convicted before me,
[or, us], } of his majesty's justices of the peace for the said county of ,
[or, for the } riding, or division of the said county of , or, for the city,
liberty, or town of , in the said county of , as the case shall be], of
purloining, embezzling, secreting, selling, pawning, exchanging, or unlawfully disposing
of, or of buying, receiving, or taking to pawn [as the case shall happen to be].
[specifying the respective goods, materials, or effects], the property of C. D.,
of , in the county of . Given under my hand and seal,
[or, our hands and seals], the day and year aforesaid."

Which said form and conviction shall not be liable to be removed by *certiorari* into his majesty's Court of King's Bench; and the said justice or justices before whom such conviction shall be had, shall cause the same, drawn up in the form aforesaid, to be fairly written upon parchment, and transmitted to the next general or quarter sessions of the peace, to be held for the county, riding, division, city, town, or liberty, wherein such conviction was had, to be filed and kept amongst the records of the said general or quarter sessions; and in case any person or persons so convicted shall appeal from the judgment of the said justice or justices to the said general or quarter session, the justices in such general or quarter-sessions are hereby required, upon receiving the said conviction, drawn up in the form aforesaid, to proceed to the hearing and determination of the matter of the said appeal, according to the directions of this act; any law or usage to the contrary notwithstanding."

Sect. 5. "That it shall and may be lawful to and for any one justice of the peace of any county, riding, division, city, liberty, town, or place, and he is hereby required, upon complaint to him made upon oath of any offence committed against this act within the same county, riding, division, city, liberty, town, or place, to issue his warrant for apprehending and bringing before him, or before any other justice or justices of the peace of the same county, riding, division, city, liberty, town, or place, the person or persons charged with such offence: and the justice or justices before whom such person or persons shall be brought, is and are hereby authorized and required to hear and determine the matter of every such complaint, and to proceed to conviction and judgment thereupon."

Conviction to be
alied.

Conviction.

Justice may is-
sue warrant.

XVII. Disputes between Paper-Makers and Workmen.

[5 Geo. IV. c. 95.]

The 5 Geo. IV. c. 95, s. 1, repeals the 36 Geo. III. c. 111; and the 6 Geo. IV. c. 129, repeals the 5 Geo. IV. c. 95, except as to its repealing clauses.



XVIII. Disputes between Masters and Servants in Husbandry, Artificers, Calico-Printers, Handicraftsmen, Miners, Colliers, Keelmen, Pitmen, Glassmen, Porters, and other Labourers.

[20 Geo. II. c. 19; 27 Geo. II. c. 6; 31 Geo. II. c. 11; 6 Geo. III. c. 25; 57 Geo. III. c. 122; 58 Geo. III. c. 51; 4 Geo. IV. c. 34; 10 Geo. 4, c. 52.]

By construction of law upon the 5 Eliz. c. 4, the justices had a power of compelling the payment of the wages which they had rated and assessed; but that statute being deficient in two material points, to wit, in extending only to such wages as should be rated, and to servants in husbandry only; and moreover there being therein (as hath been observed) no power to admit the servant's oath in evidence: therefore, by the 20 Geo. II. c. 19, after reciting, that "whereas the laws now in being, for the better regulation of servants, and for the payment of wages to them, and to artificers, handicraftsmen, and labourers, are insufficient and defective;" for remedy whereof it is enacted, that after the 25th March, 1747, "all complaints, differences, and disputes, which shall happen and arise between masters or mistresses, and servants in husbandry, who shall be hired for one year, or longer, or which shall happen or arise between masters and mistresses, and artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers employed for any certain time, or in any other manner, shall be heard and determined (a) by one or more justice or justices of the peace of the county, riding, city, liberty, town corporate, or place, where such master or mistress shall inhabit, (b) although no rate or assessment of wages has been made that year by the justices of the peace of the shire, riding, or liberty, or by the mayor, bailiff, or other head officers, where such complaints shall be made, or where such differences or disputes shall arise; which said justice or justices is and are hereby empowered to examine upon oath, (c) any such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, or any other witness or witnesses, touching any such complaint, difference, or dispute, and to make such order (d) for payment of so much wages to such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, as to such justice or justices shall seem just and reasonable, provided that the sum in question do not exceed 10*l.* with regard to any servant, nor 5*l.* with regard to any artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or labourer; and in case of refusal or non-payment of any sums so ordered, by the space of one-and-twenty days next after such determination, (e) such justice and justices shall and may issue forth

Differences between masters and certain servants, to be determined by a justice of the peace where the master resides. (a)

Justice to examine servants, &c. upon oath, (b) and make order (c) for payment of wages due, if under a certain sum. Not exceeding 10*l.* with regard to any servant, nor 5*l.* with regard to any artificer, &c.

(a) Form (No. 2), *post*.

(b) See the 4 Geo. IV. c. 34, s. 4, as to recovery of wages in absence of masters, *post*.

(c) Form (No. 2), *post*.

(d) Form (No. 4), *post*.

(e) But by the 4 Geo. IV. c. 34, s. 5, *post*, every justice or justices of the peace, before whom any complaint shall

be made in pursuance of the 20 Geo. II. c. 19, or of the 31 Geo. II. c. 11, shall and may order the amount of the wages that shall appear due to any servants in husbandry, artificers, labourers, or other persons named in the said acts, or either of them, to be paid to the person entitled thereto, within such period as the said justice or justices shall pro-

his and their warrant (a) to levy the same by distress and sale of the goods and chattels of such master or mistress, or person employing such artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, rendering the overplus to the owners, after payment of the charges of such distress and sale."

LABOURERS,
MINERS, &c.
On non-payment,
to be levied by
distress and sale.

The 31 Geo. II. c. 11, s. 3, after reciting the 20 Geo. II. c. 19, s. 1, and that doubts have arisen whether the words, "any labourers employed for any certain time, or in any other manner," extend to servants in husbandry hired for a less time than one year, for obviating the said doubts, enacts, "that . . . the said act, and all and every clause and matter therein contained, shall . . . be deemed and construed to extend to all servants employed in husbandry, though hired for a less time than one year; any thing in the said recited act of the twentieth year of his present majesty's reign or in any other act contained to the contrary notwithstanding."

30 Geo. 2. c. 10,
extended to ser-
vants employed
in husbandry, al-
though hired for
a less time than a
year.

and the 20 Geo 2. c. 19 does not give power to servants to summon masters for wages

By the 20 Geo. II. c. 19, s. 2, it is enacted, "that it shall and may be law-ful to and for such justice or justices, upon application or complaint (b) made, upon oath, by any master, mistress, or employer, against any such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or labourer, touching or concerning any misdemeanor, miscarriage, or ill-behaviour, in such his or her service or employment (which oath such justice or justices is and are hereby empowered to administer) to hear, examine, and determine the same; and to punish the offender by commitment (c) to the house of correction, there to remain and be corrected, (d) and held to hard labour for a reasonable time, not exceeding one calendar month, or otherwise by abating some part of his or her wages, or by discharging such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or labourer, from his, her, or their service or employment: and in like man-ner also it shall and may be lawful to and for such justice or justices, upon any complaint or application, upon oath, by any such servant, (e) artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, against such master, mistress, or employer, touching or concerning any misuse, refusal of necessary provision, cruelty, or other ill-treatment of, to, or towards such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, and to summon (f) such master, mistress, or employer to appear before such justice or justices, at a reasonable time to be prefixed in such summons; and such justice or justices shall and may examine into the matter of such complaint, whether such master, mis-tress, or employer shall appear or not; proof being made, upon oath, of his or her being duly summoned; and upon proof thereof made, upon oath, to his or their satisfaction, to discharge (g) such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, of and from his said service and employment; which discharge shall be given under the hand and seal or hands and seals of such justice or justices gratis."

Justices to hear
masters' com-
plaints on oath,

and to punish the
offender by com-
mitment,
abatement of
wages, or dismis-
sion.

Justices to hear
servants' com-
plaints on oath,

and to summon
master, &c.

and, upon satis-
factory proof, to
discharge the
servant.

+ &c.

Sect. 3 and 4 of this act relate to apprentices. See *Apprentices*, vol. I.

Sect. 5. "That, if any person or persons shall think himself, herself, or them-selves aggrieved by such determination, order, or warrant of such justice or

Appeal.

per; and in case of refusal or nonpay-ment thereof, shall and may levy the same by distress and sale, in manner di-rected by the said first-mentioned act; and every order or determination of such justice or justices made under this act, shall be final and conclusive, any thing in either of the said acts contained to the contrary in any wise notwithstand-ing.

- (a) Form (No. 5), *post*.
- (b) Form (No. 6), *post*.
- (c) Form (No. 8), *post*.
- (d) By the 1 Geo. IV. c. 57, the pu-nishment of whipping females is abo-lished. See *post*, *Whipmen*.
- (e) Form (No. 9), *post*.
- (f) Form (No. 10), *post*.
- (g) Form (No. 11), *post*.

LABOURERS,
MINERS, &c.

Costs.

Writ of certiorari not issuable.

Provisions in 20 Geo. 2, c. 19, relating to servants, &c. extended to tinnern, &c.

Stannary courts.

Meaning of term "other labourers."

justices as aforesaid (save and except any order or commitment), he, she, or they may appeal to the next general quarter-sessions of the peace to be held for the county, riding, liberty, city, town corporate, or place where such determination or order shall be made; which said next general quarter-sessions is hereby empowered to hear and finally determine the same, and to give and award such costs to any of the respective persons, appellant or respondent, as the said sessions shall judge reasonable, not exceeding 40s.; the same to be levied by distress and sale, in manner before mentioned."

Sect. 6. "That no writ of certiorari, or other process, shall issue or be issuable to remove any proceedings whatsoever, had in pursuance of this act, into any of his majesty's courts of record at Westminster."

By the 27 Geo. II. c. 6, s. 1, the seventh section of the 20 Geo. II. c. 19, is repealed.

Sect. 2. "That . . . all the provisions and regulations in the said act mentioned and contained, relating to servants in husbandry, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers, shall extend to such tinnerns and miners as are or shall be employed in the stannaries in the counties of Devon and Cornwall respectively, as fully and effectually, to all intents and purposes, as if the said provisions and regulations were herein particularly repeated and set forth; any law, statute, usage, privilege, or jurisdiction whatsoever, to the contrary in any wise notwithstanding."

Sect. 3. "That nothing in this act contained shall be construed to hinder or restrain any person from applying to the stannary courts, or to the warden, vice-warden, or stewards of the stannaries, in relation to any of the matters hereinbefore mentioned, in the same manner as such person might have done before the making of this act."

Meaning of Words "other Labourers"—It was formerly supposed, that the words in the statute 20 Geo. II. c. 19, "and other labourers," meant only labourers in any of the enumerated trades; but in the case of *Lowther v. the Earl of Radnor and Eyre*, 8 East, 113, they received a more enlarged construction. To an action of trespass for taking the plaintiff's goods, the defendants, who were justices of the peace for the county of Wilts, justified under this statute; and, on the trial, a special case was reserved for the opinion of the Court of King's Bench. On the 27th of November, 1804, the defendants made this order:—"Wilts, to wit. To *T. Lawes*, one of the tithing-men, &c. Whereas *J. Sopp*, of, &c. labourer, hath complained unto *J. T. B.*, one of the justices, &c., that *G. Lowther*, Esq., of, &c., refused to pay unto him, the said *Sopp*, 4*l.* 13*s.* 6*d.* for wages justly due to him for work and labour done by the said *J. Sopp* and by *T. Franklin*, in the service of the said *G. Lowther*, by digging and steaning part of a well at, &c. The order then stated that *Mr. Lowther* was summoned to answer the complaint, but that he did not appear, and that the defendants, as justices, examined, at the time and place appointed, into the complaint, and adjudged it to be true, and ordered *Mr. Lowther* to pay the money to *J. Sopp*. *Mr. Lowther* appealed to the Wiltshire quarter-sessions against this order, where the order was affirmed. After this, the two defendants made a warrant of distress against *Mr. Lowther*, stating all the above facts, under which the plaintiff's goods were taken. The case also stated, that "steaning a well" means lining it with stones and mortar. That *Sopp* had, on other occasions, been employed by the plaintiff as a labourer in husbandry. That the work was performed under a contract between the plaintiff and *Sopp*, by which the latter undertook to dig the well of a sufficient depth to supply the plaintiff's cattle with water, and for which, when it was deep enough to give a supply of water, he was to receive 2*s.* per foot. That, in the execution of the work, *Sopp* was to employ whom he pleased to assist him, but the money was to be paid to *Sopp* alone. And that *Sopp* had before done other work for the plaintiff, for which he was paid by the piece, and not by the day. For the plaintiff, it was contended, 1*st*, that

the justices had no jurisdiction to make the original order; 2ndly, if they had, that they exceeded their jurisdiction, by ordering the money, which had been earned by *Sopp* and *Franklin*, to be paid to *Sopp* alone; 3rdly, that the plaintiff was not precluded from bringing his action by having appealed to the sessions. In the course of the argument, the court seemed to think that the second point was answered by the facts of the case, the contract having been made by *Sopp* alone, who was at liberty to employ any one under him: but they gave a decided opinion on the third point, that, if there were no original jurisdiction in the magistrates making the order, the appeal would not give it. On the principal question, however, the court took time to consider of their opinion, which was afterwards delivered by Lord *Ellenborough*, C. J.:—"The question arising on this special case depends on the terms of the complaint made to the magistrates, as recited in the order of the 27th of November, 1804; and how far the terms of that complaint bring the complainant within the provisions of the 20 Geo. II. c. 19. This complaint must be taken to be true in the terms of it; no evidence appearing to have been laid before the magistrates to contradict or vary it, and they having adjudged the same to be true. By this it appears that *Sopp* was a labourer; for he is described as '*J. Sopp, of Shrewton, labourer*;' and that his demand was for wages due to him for work and labour done by himself and another person, *T. Franklin*; by which must be understood, that *Sopp* was employed to do the work either by the day or the piece, and that *Franklin* assisted *Sopp* in the work, under the retainer of *Sopp*, and not of Mr. *Lowther*; a common practice with labourers, as well in husbandry as in other business. Is *Sopp* then such a labourer as is by the 20 Geo. II. c. 19, subjected to the jurisdiction of the justices of the peace; and, of course, entitled to the benefit of that jurisdiction, to recover his wages, being under 5*l.*, by their summary process? The 20 Geo. II. c. 19, begins by reciting, that 'the laws now in being for the better regulation of servants, and for the payment of wages to them, and to artificers, handicraftsmen, and labourers, are insufficient and defective,' and for remedy enacts, that all complaints, differences, and disputes, which shall happen and arise between masters or mistresses, and servants in husbandry, who shall be hired for one year or longer, or which shall happen or arise between masters and mistresses and artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers, employed for any certain time or in any other manner, shall be heard or determined by one or more justice or justices, although no rate or assessment of wages has been made that year by the justices. The 31 Geo. II. c. 11, s. 3, recites the 20 Geo. II. c. 19, and that doubts had arisen whether the words, 'any labourers employed for any certain time, or in any other manner,' extend to servants in husbandry hired for a less time than a year; and, for obviating the said doubts, enacts, that the said act and every clause and matter therein contained shall extend to all servants employed in husbandry, though hired for a less time than a year. In the argument of this case, it was contended that *Sopp* did not come within the meaning of the act of Parliament, 20 Geo. II. c. 19, because he was not a servant in husbandry, not a servant or labourer in any of the trades, callings, or employments enumerated in that act; and that the words used in the act "other labourers employed for any certain time or in any other manner," meant labourers in any of the enumerated trades only, and not labourers generally. With the first part of the argument, that he is not to be taken as a servant in husbandry, we agree; because he is not stated to be so in the order or complaint; and we cannot intend any thing to give the justices jurisdiction beyond what appears in the order. *R. v. The Inhabitants of Hulcott*, 6 T. R. 583. But we cannot accede to the latter part of the argument, that the operation of the statute is to be confined to labourers in the several enumerated employments. The most obvious construction is not so to confine it; and no case has been stated where the construction has been so confined. The mischief recited in the preamble of the act is general, viz. that the laws in being for the better regulation of servants, and the payment of wages to them, and to artificers, handicraftsmen, and labourers, are insufficient. The remedy

Judgment of the court.

Statute not confined to labourers in enumerated employments.

LABOURERS,
MINERS, &c.

provided by the act is, that all differences between masters or mistresses and servants in husbandry, who shall be hired for a year or longer (these words certainly restrain the operation of the remedy, as to servants, to those in husbandry only, and to such as are hired for a year or longer; the act then proceeds), or (differences) which shall happen or arise between masters and mistresses and artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers employed for any certain time, or in any other manner. Now, unless these words, "other labourers," mean to comprehend a different description of persons from those before particularly mentioned, it is difficult to account for their insertion at all; but applying them to other labourers in any other trade or business, the sense will be perfect, and each word will have its meaning. But it may be said, that if such an extensive construction be put on these last words of the sentence, the former part, specifying certain trades, becomes nugatory. That, however, will not follow; for artificers, handicraftsmen, miners, &c., do not necessarily or properly fall under the denomination of labourers; there being, as I take it, a known distinction between a journeyman in any art, trade, or mystery, or other workmen employed in the different branches of it, and a labourer. It does not appear to us to be an objection to this construction, that by other acts of Parliament, passed subsequent to the 20 Geo. II., workmen or labourers in other particular trades or manufactures, or labourers generally, are subjected to certain regulations, which appear to clash with some of the provisions of this act; as the 22 Geo. II. c. 27, s. 9, for regulating certain manufactures therein mentioned; and the 6 Geo. III. c. 25, for better regulating apprentices and persons working under contract; and other statutes which may be pointed out. The true answer seems to be, that, at the time of passing one act, the legislature has not always had every other act containing provisions bearing on the same subject brought under its consideration. The act now under our consideration appears to have had for its object the affording to certain servants and workmen, and to labourers in general, a speedy, easy, and cheap mode of recovering their wages, when they amount to a small sum; and to masters an easy method of correcting trifling misdemeanors and ill behaviour in their workmen and labourers. These benefits are by the words of the act extended to servants in husbandry, to workmen in different branches of trade, and to other labourers employed for any certain time or in any other manner. The latter words are as general as may be; and we cannot find any reason in law or policy to say that they do not comprehend the case of Sopp, as stated in the order of the two magistrates. For these reasons, we are of opinion, on the questions submitted to us by the special case, that the justices making the original order had jurisdiction to make that order; and of course that the quarter sessions had jurisdiction to make the order on the appeal." And judgment was given for the defendants.

The decision of the court in the above case of *Lowther v. Earl of Radnor* proceeded on the facts laid before the justice, and the facts there stated in the information showed the relation of master and servant. In a later case, where A. had contracted with B. to build a wall for a certain price within a certain time, and having performed part of the work refused to complete it, this was held not to be a case of master and servant within the 4 Geo. IV. c. 34, s. 3, *post*, and that the magistrate had no jurisdiction. *Lancaster v. Greaves*, 9 B. & C. 628.

So, where A. contracted with B. to weave for him certain pieces of silks at certain prices, agreed on between them, it was held, on a commitment stating such a contract, that A. was not a servant within the 4 Geo. IV. c. 3 & 4, s. 3, and that the magistrates had no jurisdiction over him. *Hardy v. Ryle*, 9 B. & C. 603.

And in another case it was held that a person whose name is added to that of the regular officer in a warrant, under a *fi. fa.*, by the plaintiff's attorney, and who is employed to watch the goods after they have been taken by the officer, is not a labourer within the jurisdiction of the justices under the 20 Geo. II. c. 19. *Bramwell v. Penneck*, 1 M. & R. M. C. 109; 7 B. & C. 536.

In a late case it was held, that where a magistrate, in his adjudication on this act, avers a complaint made on oath, and an examination on oath, it is not competent, in *replevin* for taking the plaintiff's goods, for the plaintiff to plead, in bar of a cognisance made under a warrant of distress and sale founded on that adjudication, that the servant did not duly make oath before the magistrate that the sum claimed was justly due to him for wages. Nor can he plead that the sum claimed was not due. *Wilson v. Weller*, 1 B. & B. 57; 3 *Moore*, 294; 8 *Tenn.* 521, S. C. And, in the same case, *Richardson, J.*, said, that where a magistrate has competent jurisdiction, and adjudges, and, on refusal to pay, issues a warrant of distress and sale, the goods taken under it are not replevisable.

LABOURERS,
MINERS, &c.

By the 6 Geo. III. c. 25, s. 4, after recing that "whereas it frequently happens that artificers, calico-printers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, labourers, and others, who contract with persons for certain terms, do leave their respective services before the terms of their contracts are fulfilled; to the great disappointment and loss of the persons with whom they so contract:" for remedy thereof it is enacted, "that . . . if any artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall contract with any person whomsoever for any time or times whatsoever, and shall absent himself from his service before the term of his contract shall be completed, or be guilty of any other misdemeanor, that then, and in every such case, it shall and may be lawful for any justice of the peace of the county or place where any such artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall be found, and such justice is hereby authorized and empowered, upon complaint (a) thereof made upon oath to him by the person with whom such artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall have so contracted, or by his or her steward or agent, which oath such justice is hereby empowered to administer, to issue his warrant (b) for the apprehending every such artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, and to examine into the nature of the complaint; and if it shall appear to such justice that any such artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall not have fulfilled such contract, or hath been guilty of any misdemeanor, it shall and may be lawful for such justice to commit (c) (d) every such person to the house of correction for the county or place where such justices † shall reside (e), for any time not exceeding three months, nor less than one month."

Justices empowered to grant warrants against artificers and others not fulfilling their contract, or being guilty of any misdemeanor,

and upon conviction to commit the offender.

† *Sic.*

A commitment in execution by a magistrate (on this act or any other act) must state that the party has been convicted: setting forth that he was charged on oath with the offence, is not sufficient. *R. v. Cooper*, 6 T. R. 509; and see *Massey v. Johnson*, 12 *East*, 78; *R. v. Justices of Staffordshire*, 12 *East*, 575. In the case of *R. v. Rhodes*, 4 T. Rep. 220, it was objected that the warrant of commitment did not include a conviction, but only stated that the offender was charged before the justice with being a rogue and vagabond; and it did not proceed, as it ought to have done, to adjudge the defendant to be guilty of the offence charged; and it was held bad; see also *Commitment*, Vol. I.

The 4 Geo. IV. c. 34, after reciting, in s. 1, the 20 Geo. II. c. 19, and the 6 Geo. III. c. 25, enacts (s. 3) "that if any servant in husbandry or any artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall contract with any person or persons whom-

Justices may issue warrants to apprehend servants in husbandry, artificers, &c.

(a) Form (No. 12), *post*.

(b) Form (No. 13), *post*.

(c) Form (No. 14), *post*.

(d) It will be observed that this act does not authorize the discharge of the servant.

**LABOURERS,
MINERS, &c.**

Complaint to be
upon oath.

And may com-
mit offenders to
house of correc-
tion, &c.

Or abate the
wages or dis-
charge the ser-
vant.

How servants in
husbandry, arti-
ficers, &c. shall
recover their
wages in cases of
absence of mas-
ters, &c.

Summons of
bailiff by justices.

Sum not to ex-
ceed 10s.

soever, to serve him, her, or them, for any time or times whatsoever, or in any other manner, and shall not enter into or commence his or her service according to his or her contract (such contract being in writing, and signed by the contracting parties), or having entered into such service shall absent himself or herself from his or her service before the term of his or her contract, whether such contract shall be in writing or not in writing, shall be completed, or neglect to fulfil the same, or be guilty of any other misconduct or misdemeanor in the execution thereof, or otherwise respecting the same, then and in every such case it shall and may be lawful for any justice of the peace of the county or place where such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall have so contracted, or be employed or be found, and such justice is hereby authorized and empowered, upon complaint thereof made upon oath to him by the person or persons, or any of them, with whom such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person shall have so contracted, or by his, her, or their steward, manager, or agent, which oath such justice is hereby empowered to administer, to issue his warrant for the apprehending every such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, and to examine into the nature of the complaint; and if it shall appear to such justice that any such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person, shall not have fulfilled such contract, or hath been guilty of any other misconduct or misdemeanor as aforesaid, it shall and may be lawful for such justice to commit every such person to the house of correction, there to remain and be held to hard labour for a reasonable time, not exceeding three months, and to abate a proportionable part of his or her wages, for and during such period as he or she shall be so confined in the house of correction, or in lieu thereof, to punish the offender by abating the whole or any part of his or her wages, or to discharge such servant in husbandry, artificer, calico-printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person from his or her contract, service, or employment, which discharge shall be given under the hand and seal of such justice *gratis*."

Sect. 4, after reciting that "whereas it frequently happens that such masters, mistresses, or employers reside at considerable distances from the parishes or places where their business is carried on, or are occasionally absent for long periods of time, either beyond the seas, or at considerable distances from such parishes or places, and during such residence or occasional absences entrust their business to the management and superintendence of stewards, agents, bailiffs, foremen, or managers, whereby such servants, artificers, handicrafts-men, miners, colliers, keelmen, pitmen, glassmen, potters, labourers, or other persons and apprentices, are or may be subjected to great difficulties and hardships, and put to great expense in recovering their wages;" enacts, "that, in either of the said cases, it shall and may be lawful to and for any justice or justices of the county or place where such servant in husbandry, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person or apprentice shall be employed, upon the complaint of any such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person or apprentice, touching or concerning the non-payment of his or her wages, to summon such steward, agent, bailiff, foreman, or manager, to be and appear before him or them at a reasonable time to be named in such summons, and to hear and determine the matter of the complaint in such and the like manner as complaints of the like nature against any master, mistress, or employer are directed to be heard and determined in and by this and the before-recited acts, and also to make an order for the payment by such steward, agent, bailiff, foreman, or manager, to such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person or apprentice, of so much wages as to such justice or justices shall appear to be justly due; provided that the sum in question do not exceed the

sum of 10*l.*; and in case of refusal or non-payment of any sum so ordered to be paid by such steward, agent, foreman, bailiff, or manager, for the space of twenty-one days from the date of such order, such justice or justices as aforesaid shall and may issue forth his or their warrant to levy the same by distress and sale of the goods and chattels of such master, mistress, or employer, rendering the overplus to the owner or owners, or to such steward, agent, bailiff, foreman, or manager, for the use of such master, mistress, or employer, after payment of the charges of such distress and sale."

LABOURERS,
MINERS, &c.
35 Geo. 2, c. 28.
If not paid.
Distress.

Sect. 5 enacts, that every justice or justices of the peace before whom any complaint shall be made in pursuance of the said recited act, 20 Geo. II. c. 19, or the 31 Geo. II. c. 11, shall and may order the amount of the wages that shall appear due (a) to any servants in husbandry, artificers, labourers, or other person named in the said acts, or either of them, to be paid to the person entitled thereto, within such period as the said justice or justices shall think proper; and, in case of refusal or non-payment thereof, shall and may levy the same by distress and sale, in manner directed by the said first-mentioned act; and every order or determination of such justice or justices made under this act shall be final and conclusive, any thing in either of the said acts contained to the contrary in anywise notwithstanding.

Justices may order payment of wages within such time as they may think fit, upon complaint made, pursuant to 20 Geo. 2, c. 19, 21 Geo. 2, c. 11.

Order final.

By the 10 Geo. IV. c. 52, the provisions of this act of 4 Geo. IV. are extended to the servants named in the 17 Geo. III. c. 10, s. 56.

As to who are servants within the meaning of the 4 Geo. IV. c. 34, s. 3, see, *ante*, p. 402, 403. The act extends only to cases where the relation of master and servant exclusively exists; and therefore where A. had contracted with B. to build a wall for a certain price, within a certain time, and having performed a part of the work, refused to complete it, this was held not to be within the statute, and that a magistrate who acted upon the complaint of B. and convicted and committed A. to prison, was liable to an action for false imprisonment. *Lancaster v. Greaves*, 9 B. & C. 628; and see other cases, *ante*, p. 402 to 405.

The 6 Geo. III. c. 26, s. 5, provides, "that if any person shall think himself aggrieved by such determination, order, or warrant, of any justice of the peace as aforesaid, except an order of commitment, every such person may appeal to the next general quarter-sessions of the peace to be held for the county or place where such determination or order shall be made; such person giving six days' notice of his intention of bringing such appeal, and of the cause and matter thereof, to such justice of the peace and the parties concerned, and entering into a recognizance within three days after such notice, before some justice of the peace for such county or place, with sufficient surety, conditioned to try such appeal at, and abide the order or judgment of, and pay such costs as shall be awarded by, the justices at such quarter sessions; which said justices, at their said sessions, upon due proof of such notice being given, and of entering into such recognizance as aforesaid, shall and are hereby directed to proceed in, hear, and determine, the causes and matters of all such appeals; and shall give such relief and costs to the parties appealing or appealed against, as they, in their discretion, shall judge proper and reasonable; and their judgments and orders therein shall be final and conclusive to all parties concerned."

Persons aggrieved by the order of a justice (except in cases of commitment), may appeal; giving notice to the justice, and entering into recognisances, &c.

Justices at the quarter-sessions empowered to determine the appeal, and award costs.

Sect. 6. "That nothing in this act contained shall extend to the stannaries in the counties of Devon and Cornwall, or to impeach or lessen the jurisdiction of the chamberlain of the city of London, or of any other court within the said city, touching apprentices."

No appeal lies to the sessions against a record of conviction and commitment in execution (which, under this act, appear to be one and the same thing) for three months, of a collier for absenting himself from his master's service. *R. v. the Justices of Staffordshire*, 12 East, 572. Lord Ellenborough, C. J.,

Appeal.

(a) As to when wages are due, see *ante*, 363, 360.

LABOURERS,
MINERS, &c.

there said, "It is not for us to say whether it may be convenient and proper to provide a remedy by appeal for a party grieved by a commitment in execution under this act; we can only declare what the legislature have said in this case: and when by excepting an order of commitment out of the appeal clause, they have said that there shall be no appeal against such an order, and when the commitment must for this purpose be taken to be one and the same thing with the conviction, we have no discretion left to exercise upon the subject, and it does not become us to scan the wisdom of the provision which the legislature have enacted."

Who the employer.

The employer is the person on whose farm the employment is, and not the bailiff, though the contract of hiring may have been made personally with the bailiff. *R. v. Hoseason*, 14 East, 605. The defendant, a magistrate, having heard a complaint referred to him in his judicial character by the bailiff of his own farm against one *G. Battersby*, a labourer in husbandry, who had been employed upon the farm by the bailiff, and was charged by him for misconduct in his business and refusal to perform his work, had sentenced *Battersby* to be committed to the house of correction, there "*to be corrected*," and kept to hard labour for *one calendar month*," whereupon a criminal information was moved for against the defendant, grounded upon special circumstances of alleged misconduct, as well in respect of the general complexion of the case, as having been guilty of particular oppression in giving that judgment. In the course of the discussion, a question arose whether, if the defendant committed *Battersby* to the house of correction at all, he was not bound to sentence him also *to be there corrected*, by which was understood to be corporally corrected by whipping, as had, in fact, been done. [See the 20 Geo. II. c. 19, s. 2, and the 6 Geo. III. c. 25, for the better regulating apprentices and persons working under contract.] The court, upon consideration of the two statutes, were of opinion, that if the commitment in question (which was for *one calendar month*) were intended by the magistrate to be made under the 20 Geo. II., the correction thereby directed (by which they understood corporal punishment by whipping, and which they considered the sentence in question to import by the commitment to the house of correction, there to be corrected) was a necessary part of the judgment. But that, under the latter statute, which enabled the justice to commit the offender to the house of correction for any time not exceeding three months, nor less than one month, bodily correction was no part of the sentence; and they thought that the punishment inflicted by the two acts could not be blended together, as they appeared to be by the precedent in *Burn's Justice*, which they said was incorrect in that respect. But though the court thought that the sentence pronounced by the defendant in this case was legal in the form of it under the 20 Geo. II., yet Lord *Ellenborough*, C. J., in delivering their opinion upon that point, strongly expressed his disapprobation of the conduct of the defendant for sitting in judgment as a magistrate upon the imputed misconduct of his own labourer, of which he himself was to be considered as the complainant, though in form the complaint was preferred by his bailiff. It was impossible, he observed, to consider the defendant's bailiff as the employer of the labourer upon the defendant's own farm, with the sense of that word in the act, though the contract of hiring was made personally by the bailiff; and that it was a most abusive interpretation of the law for a man to erect himself as a criminal judge over the servants on his own farm for an offence against himself. However, as the defendant appeared, from the circumstances of the whole case, to have acted in this respect from an error of judgment, rather than from any bad motive; and in the mode of punishment adopted by him, which had been urged in aggravation, as evincing a vindictive motive, was probably misled by the erroneous precedent in *Burn's Justice*, which appeared to leave him no discretion in ordering corporal punishment, the court finally discharged the rule upon the defendant's payment of all the costs of the application.

Upon comparing the two statutes, viz. 20 Geo. II. c. 19, and 6 Geo. III. c. 25, there appears to be a distinction as to the applicants. In the former act, it is to be on application by *any master, mistress, or employer*; by the latter act,

the complaint is to be by "*the person with whom the labourer shall have contracted, or by his steward or agent*:" and perhaps the punishment which may be legally affixed, may depend upon the station which the applicant may hold: and it also seems that the words *guilty of any misdemeanor*, in the 6 Geo. III. c. 25, are much more general than the words "*any misdemeanor IN HIS SERVICE*," in the 20 Geo. II. c. 19.

LABOURERS,
MINERS, &c.

By the 57 Geo. III. c. 122, s. 1, the provisions of the 12 Geo. I. c. 34, which prohibits the payment of the wages of persons employed in the woollen manufacture in goods, and to secure the payment of every part of their wages in good and lawful money of this kingdom, are extended to labourers employed in working and getting coal in the United Kingdom of Great Britain and Ireland.

Provisions of 12
Geo. I. c. 34, ex-
tended to labour-
ers in collieries.

But by the 58 Geo. III. c. 51, s. 1, it is enacted, "that it shall and may be lawful to and for all and every person or persons concerned in the trades or occupations, or concerned in the employment of artificers, workmen, or labourers of the description mentioned in the aforesaid acts, or any of them, to pay the wages of their, his, or her workman or workmen, labourer or labourers, artificer or artificers, in a note or notes of the governor and company of the Bank of England, or in a note or notes of any duly licensed banker or bankers, issued under the authority of the statutes for the time being in that behalf made and provided, and according to the provisions of the statutes for the time being for granting and regulating the stamp duties in all cases where his, her, or their labourer or labourers, workman or workmen, artificer or artificers, shall freely and voluntarily consent, and be willing to accept and receive the same in payment or satisfaction of his, her, or their wages, but not otherwise." See, *ante*, p. 365.

Wages may be
paid in bank
notes if the party
consents.

By the 57 Geo. III. c. 122, s. 2, it is enacted, that all the provisions of the 22 Geo. II. c. 27, to facilitate the labourers in the *woollen* trade recovering the wages for which they have stipulated, or to which they are entitled, as well as the provisions imposing a penalty on masters paying labourers in goods, are extended to persons employed in collieries, and in working and getting coal, in the United Kingdom of Great Britain and Ireland, in as full and ample a manner as if they had been enumerated in the aforesaid act; and all remedies, penalties, modes of recovery, powers, and privileges, and all other matters and things therein for these purposes contained, are hereby extended to parties concerned in coal works, or connected therewith.

57 Geo. 3, c. 122.
The provisions in 22
Geo. 2, c. 27, ap-
plicable to this
act.

SECT. 3. The provisions of the acts of the 12 Geo. I., and of the 22 Geo. II., are extended to Scotland and Ireland.

The provisions of
recited acts ex-
tended to Scot-
land and Ireland.

XIX. Tailors and Workmen within the Bills.

[7 Geo. I. st. 1, c. 13; 5 Geo. IV. c. 95.]

The 5 Geo. IV. c. 95, s. 1, repeals the 8 Geo. III. c. 17, regulating the wages and working-hours of tailors; and also the 7 Geo. I. st. 1, c. 13, excepting so much thereof as relates to the recovery of wages, or to journeymen tailors, or servants departing from their service, or refusing to enter into work or employment, as therein mentioned.

5 Geo. 4, c. 95,
repeals 8 Geo. 3,
c. 17, and 7 Geo.
1, st. 1, c. 13, in
part.

By the 7 Geo. I. st. 1, c. 13, s. 6, it is enacted, "that if any person actually retained or employed as a journeyman tailor, or servant, in the art or mystery of a tailor, as aforesaid, within the limits aforesaid, shall at any time or times . . . depart from his service before the end of the term or time for which he is or shall be hired or retained, or until the work for which he was hired or retained shall be finished, or not being retained or employed, shall refuse to enter into work or employment (after request made for that purpose by any master tailor, for the wages and hours limited, or to be limited and

Leaving work
unfinished.

TAILORS AND
WORKMEN.7 Geo. I, st. 1,
c. 13.

Appeal.

appointed as aforesaid), unless it be for some reasonable or sufficient cause, to be allowed by two justices of the peace within the limits aforesaid; then and in every such case, every person so offending, being thereof lawfully convicted, as aforesaid, shall be sent to the house of correction, there to be kept to hard labour for any time not exceeding two months."

Sect. 9. "That it shall and may be lawful for any person aggrieved by any order or orders to be made by any two or more justices of the peace, as aforesaid, to appeal to the justices of the peace assembled at the next general quarter sessions to be holden for the city, division, parish, or place where such order shall be made, giving six days' notice of such appeal; and such justices in such general quarter sessions, shall finally hear and determine the matter, and shall have power to award reasonable costs to either party, as to them shall seem just."

XX. Shoemakers and Workmen within the Bills of
Mortality.

[9 Geo. I. c. 27.]

Purloining
shoes or mate-
rials.

By the 9 Geo. I. c. 27, s. 1, it is enacted, "that if any journeyman shoemaker, or other person, hired or employed as such, within the bills of mortality, shall . . . be accused by the master so hiring or employing such journeyman or other person aforesaid, of having . . . fraudulently purloined, embezzled, sold, pawned, or exchanged, any boots, shoes, slippers, cut leather, lace, silk, lasts, or other materials, for making boots, shoes, slippers, or other wares, not being the proper goods of the person so accused, it shall and may be lawful to and for any one or more of his majesty's justices of the peace for the county, city, town, or place, where such offence shall be committed, or where the party so accused shall reside or inhabit, and such justice or justices is and are hereby respectively authorized and required, upon complaint or information upon oath of such offence (which oath or oaths such justice or justices is and are hereby empowered to administer) to summon the party or parties complained of, or to issue his or their warrant or warrants, to apprehend and bring before him or them the person or persons so accused, complained of, or suspected, and upon his or their appearance, or default to appear, to proceed to examine the matter of fact with which they are charged, and upon due proof thereof made, either by confession of the party or parties so accused, or upon the oath or oaths of one or more credible person or persons, to determine the same, and to convict the offender or offenders, and, upon such conviction, immediately to award to the party or parties injured, reasonable recompense and satisfaction for the damage, loss, and charges by them sustained, and upon the neglecting or refusing immediately to pay the same, to levy the same by warrant or warrants, under the hand and seal, or hands and seals, of such justice or justices, upon the goods and chattels of the offender or offenders, rendering the overplus to the owner or owners thereof, and for want of sufficient distress, to cause the offender or offenders to be whipped in the parish or place where the offence shall be committed; and in case of conviction for any second or other such offence, to commit the offender or offenders to the house of correction, there to remain and to be kept to hard labour, for any time not exceeding one month, nor less than fourteen days, as to such justice or justices shall seem meet and reasonable."

Receiving.

Sect. II. "That all and every person and persons who shall . . . buy or receive, or take in pawn, of or from any journeyman shoemaker, or other person hired or employed as such, in manner as aforesaid, or from any other person whatsoever, any boots, shoes, slippers, cut leather, lace, silks, lasts, or other materials, for making boots, shoes, slippers, or other wares, not being the proper goods of the person or persons selling or pawning, or offering to sell or pawn the same, shall, for every such offence, (being lawfully convicted

thereof, in manner as aforesaid) make such reasonable recompense, within two days after the matter of fact shall be determined, as, upon hearing of the same, shall be awarded, in manner as aforesaid, or else be subject to such distress, and, for want of sufficient distress, to be liable to the like punishment as is hereby inflicted, or intended to be inflicted, on such journeyman, journeyman, or other person or persons, so purloining, embezzling, selling, pawning, or exchanging such goods or materials as aforesaid."

SHOEMAKERS
WITHIN THE
BILLS.

1 Geo. 1, c. 27.

Sect. 3. "That it shall and may be lawful for any two or more of his majesty's justices of the peace, dwelling within the limits aforesaid, upon any complaint or information upon oath, to issue their warrant or warrants for searching, in the day-time, the house, warehouse, or other place of such person or persons, as such justices shall have just cause to suspect to have received, bought, or taken to pawn, any such goods so fraudulently embezzled or purloined as aforesaid, and for that purpose, upon refusal, to break open any such house, warehouse, or other place, if there shall be occasion; and that every person who shall oppose and hinder such search, shall, for every such offence, forfeit the sum of 10*l.* to any person or persons who shall inform and sue for the same, within two calendar months after the offence committed, in any of his majesty's courts of record at Westminster, by action of debt, bill, plaint, or information, wherein no essoin, privilege, protection, order of restraint, wager of law, or more than one imparlance, shall be granted or allowed; and if it shall appear by the oath of one or more credible witness or witnesses, or upon search of such house, warehouse, or other place, it shall be found such person or persons hath or have in his, her, or their custody or possession, any such goods so fraudulently sold, exchanged, or pawned, as aforesaid, such justices shall cause the same to be restored to the owner or owners, proprietor or proprietors thereof, and oblige the party or parties so offending, to make recompense and satisfaction to such owner, for the loss and damage in detaining such goods, and charges in getting the same, and, upon refusal of the party or parties so to do, to † be subject to the like punishment as shall be inflicted, or hereby provided to be inflicted, on such journeyman or agent, or other person so fraudulently embezzling, purloining, selling, exchanging, or pawning, any such goods as aforesaid."

Power of the
justices.

† *Sic.*

Sect. 4. "That all and every person and persons who shall at any time hereafter be retained or employed in the making up of any boots, shoes, and slippers, or other wares, for any one master, and shall neglect the performance thereof, by suffering himself to be retained or employed by any other master, or other person whatsoever, before he or they shall have completed the same, and finished the said work first delivered to him or them, then in every such case, every person so offending, being thereof lawfully convicted by the oath or oaths of one or more credible witness or witnesses, before one or more justice or justices of the peace where the offences shall be committed, the person or persons so convicted shall be sent to the house of correction, there to be kept to hard labour for any time not exceeding one month."

Leaving work
unfinished.

Sect. 5. "That it shall and may be lawful for any person aggrieved by any order or orders to be made by any such justice or justices, to appeal to the next quarter-sessions of the peace, to be holden for the county, city, town, or place, where such order shall be made, giving eight days' notice of such appeal; and such justices, at their quarter-sessions, shall hear the master, † and shall have power to make satisfaction to either party, as to them shall seem just, whose determination therein shall be final."

Appeal.

† *Sic.*

XXI. *Arbitration between Masters and Workmen.*

[5 Geo. IV. c. 96.]

By the 5 Geo. IV. c. 96, s. 1, (a) after reciting that it is expedient that the laws relative to the arbitration of disputes between masters and workmen

(a) Intituled, "An Act to Consolidate and Amend the Laws relative to the Arbitration of Disputes between Masters and Workmen," dated 21st June, 1824.

**ARBITRATIONS
BETWEEN.**

5 Geo. 4, c. 90.

Enumeration of
the causes of dis-
pute that may be
referred.

should be consolidated and amended, and one general law made applicable to every description of trade and manufacture; it is enacted, that the 39 & 40 Geo. III. c. 90, c. 106, 41 Geo. III. United Kingdom, c. 38, and 44 Geo. III. c. 87, shall be and are repealed, save and except in as far as the same may have repealed any prior acts or enactments.

Sect. 2. "That the following subjects of dispute arising between masters and workmen, or between workmen and those employed by them, in any trade or manufacture in any part of the United Kingdom of Great Britain and Ireland, may be settled and adjusted in manner hereafter mentioned; that is to say, disagreements respecting the price to be paid for work done, or in the course of being done, whether such disputes shall happen or arise between them respecting the payment of wages as agreed upon, or the hours of work as agreed upon, or any injury or damage done, or alleged to have been done to the work, or respecting any delay, or supposed delay, in finishing the work, or the not finishing the work in a good and workmanlike manner, or according to any contract, or to bad materials; cases where the workmen are to be employed to work any new pattern which shall require them to purchase any new implements of manufacture, or to make any alteration upon the old implements for the working thereof, and the masters and workmen cannot agree upon the compensation to be made to such workmen for or in respect thereof; disputes respecting the length, breadth, or quality of pieces of goods, or, in the case of cotton manufacture, the yarn thereof, or the quantity and quality of the wool thereof; disputes respecting the wages or compensation to be paid for pieces of goods that are made of any great or extraordinary length; disputes in the cotton manufacture respecting the manufacture of cravats, shawls, policals, romals, and other handkerchiefs, and the number to be contained in one piece of such handkerchiefs; disputes arising out of, for, or touching the particular trade or manufacture, or contracts relative thereto, which cannot be otherwise mutually adjusted and settled; disputes between masters and persons engaged in sizing or ornamenting goods; but nothing in this act contained shall authorize any justice or justices acting as hereafter mentioned, to establish a rate of wages or price of labour or workmanship, at which the workman shall in future be paid, unless with the mutual consent of both master and workman: provided always, that all complaints by any workman, as to bad materials, shall be made within three weeks of his receiving the same; and all complaints arising from any other cause shall be made within six days after such cause of complaint shall arise."

Limitation for
workmen to
lodge their com-
plaints.

Appointment of
referees.

Sect. 3. "That whenever such subjects of dispute shall arise as aforesaid, it shall be lawful for the master and workman, or either of them, to demand and have an arbitration or reference thereof in manner following; that is to say, where the party complaining and the party complained of shall come before or agree by any writing under their hands, to abide by the determination of any justice of the peace or magistrate of any county, riding, division, stewartry, barony, city, borough, town, or place, within which the parties reside, it shall and may be lawful for such justice of the peace or magistrate to hear and finally determine, in a summary manner, the matter in dispute between such parties; but if such parties shall not come before or so agree to abide by the determination of such justice of the peace or magistrate, then it shall be lawful for any such justice or magistrate, and such justice of the peace or magistrate is hereby required, on complaint made before him, and proof by the examination of the party making such complaint, that application has been made to the person or persons against whom such cause of complaint has arisen, or his, her, or their agent or agents, if such dispute has arisen with such agent or agents, to settle such dispute, and that the same has not been settled upon such complaint being made, or where the dispute relates to a bad warp, that such cause of complaint has not been done away with within forty-eight hours after such application, to summon before him such person or persons, or agent or agents, on some day, not exceeding three days, exclusive of Sunday, after the making such complaint, giving notice to the person making such complaint of the time and place appointed in such summons for the attendance of such person or persons, agent or agents, as aforesaid; and if at such time and place the per-

son or persons so summoned shall not appear by himself, herself, or themselves, or send some person on his, her, or their behalf, to settle such dispute, or appearing, shall not do away such cause of complaint, then and in such case it shall be lawful for such justice, and he is hereby required, at the request of either of such parties, to nominate arbitrators or referees for settling the matters in dispute; and such justice shall then and there, at such meeting, propose not less than four, nor more than six persons, one half of whom shall be master manufacturers, or agents or foremen of some master manufacturer, and the other half of whom shall be workmen in such manufacture; such respective persons residing in or near to the place where such disputes shall have arisen; out of which master manufacturers, agents, or foremen, the master engaged in such dispute, or his agent, shall choose one, and out of which workmen so proposed, the workman or his agent shall choose another, who shall have full power to hear and finally determine such dispute."

Section 4. "That in case any or either of the persons so proposed by any such justice shall refuse or delay to accept such arbitration, or accepting shall not act therein, within two days after such nomination, the justice shall proceed to name another or other persons of the descriptions aforesaid, in the room of the person so refusing as aforesaid to be arbitrator or arbitrators in the place of any such arbitrator or arbitrators so refusing or delaying to accept, or who shall not act; and in every case of a second nomination the arbitrators shall meet within twenty-four hours after the application for the same, and at the same place at which the meeting of the referees first named was appointed, or at some other convenient place, as the justice may appoint; and the expense of every such application for the appointment of a second referee shall be borne and defrayed by the party through whose default, or the default of whose referee, such application is rendered necessary; and the justice making such second appointment shall certify the same in the form for that purpose hereafter set forth, or in some other form to the like effect; and in every case where a second arbitrator shall be appointed as aforesaid, and such second arbitrator shall not attend at the same time and place appointed for settling the matters in dispute, it shall be lawful for the other arbitrator, at such time and place, to proceed by himself to the hearing and determining of the same matters in dispute; and in such case the award of such sole arbitrator shall be final and conclusive as to all matters in dispute submitted to such arbitrator, without being subject to review, appeal, or suspension."

Section 5. "That the arbitrators or referees being so nominated as aforesaid, the said justice shall thereupon appoint a place of meeting according to the directions of this act, and also a day for the meeting, notice of which nomination, and of the day of meeting, shall thereupon be given by such justice to the persons so nominated arbitrators or referees, and to any party to any such dispute, who may not have attended the meeting before such justice as aforesaid; which appointment shall be by such justice certified in the form following, or in some other form to the like effect; that is to say—

"I, A. B., one of the justices of the peace acting for , do hereby certify, that C. D. and E. F. are duly nominated referees to settle the matters in difference between G. H., of , master manufacturer [or, agent or foreman, as the case may be], and I. K., of , weaver [or otherwise, as the case may be], pursuant to an act passed in the fifth year of the reign of his [present] majesty; and that the said referees are hereby directed to meet at , on , the day of , at of the clock in the forenoon [or, afternoon, as the case may be].
"A. B."

ARBITRATIONS
BETWEEN.

-5 Geo. 4, c. 96.

Justice to name
them in cases
above specified.Master to choose
one, and work-
men the other.Regulations for
appointment
of other referees
where those ap-
pointed refuse or
delay to accept
the reference, or
accepting do not
act therein.Meeting of re-
ferees, notice of
which shall be
given.Form of a jus-
tice's order, cer-
tifying nomina-
tion of referees.

"I, A. B., one of the justices of the peace acting for , do hereby certify, that the above-named C. D. and E. F. [or, one of them, as the case may be], having refused or delayed to act in the above-mentioned reference, L. M. and N. O. [or, L. M. only, as the case may be], are [or, is] by me duly nominated referees [or, referee], together with the above-named C. D. [or, E. F.], to settle the matters in difference between the above-named G. H. and I. K.; and the said C. D. [or, E. F.], together with the said L. M. [or, the said L. M. or N. O., as the case

ARBITRATIONS may be], are directed to meet at the place above-mentioned on , the day of , in the year of our Lord , of the clock in the forenoon [or, afternoon, as the case may be].
 8 Geo. 4, c. 96. "A. B."

And the persons so appointed as aforesaid shall hear and examine the parties and their witnesses, and determine such dispute within two days after such nomination, exclusive of *Sundays*; and the determination of such arbitrators shall be final and conclusive." (a)

Place for the meeting of referees.

Sect. 6. "That in all cases where complaints are made respecting bad warps or utensils by workmen, the place of meeting of the referees shall be at or as near as may be to the place where the work shall be carrying on; and in all other cases at or as near as may be to the place or places where the work has been given out."

Attendance of parties.

Sect. 7. "That if any person so complaining as aforesaid shall not attend, or send some person on his or her behalf, at the time and place appointed by such justice of the peace, for the purpose of naming such persons as aforesaid, such person shall not in such case be entitled to the benefit of this act; and if any person against whom any such complaint shall have been made as aforesaid shall not attend, or send some person on his or her behalf, the justice of the peace shall thereupon nominate a person for him out of such persons so proposed as aforesaid."

Mode of investigation of complaint by the arbitrators.

Sect. 8. "That the said arbitrators and referees shall meet at the time and place fixed by the justice of the peace by whom such referees were appointed, and shall, by inspection of the work in regard to which the dispute may have arisen, by hearing and examining the parties, or any other persons on their behalf, or that attend to give evidence respecting the matters in dispute, upon oath, (which (b) the said arbitrators and referees are hereby empowered to administer), or otherwise, or by otherwise ascertaining the true state of the case, in such manner as to such arbitrators and referees shall appear necessary, proceed to determine the matter or matters in dispute referred to them; and the award to be made by such arbitrators and referees shall be final and conclusive between the parties, without being subject to review or challenge by any court or authority whatsoever."

Arrest and commitment of refractory witnesses.

Sect. 9. "That it shall be lawful for any arbitrator or arbitrators, referee or referees, and he and they are hereby authorized and required, at the request in writing of any of the parties, to issue his or their summons to any witness or witnesses to appear and give evidence before such arbitrator or arbitrators, referee or referees, at the time and place appointed for hearing and determining any such dispute, and which time and place shall be specified in such summons; and if any person so summoned to appear as a witness as aforesaid, shall not appear before such arbitrator or arbitrators, referee or referees, at the time and place specified in such summons, or offer some reasonable excuse for the default, or appearing according to such summons, shall not submit to be examined as a witness, and give his evidence before such arbitrator or arbitrators, referee or referees, touching the matter of such dispute, then and in every such case it shall be lawful for any one or more of his majesty's justices of the peace acting in and for the county, stewardry, riding, division, barony, city, burgh, town, or place where such dispute shall have arisen, and they are hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such justice or justices, of the due service of such summons on every such person, by delivering the same to him, or by leaving the same twenty-four hours before the time appointed for such person to appear before such arbitrator or arbitrators, referee or referees, at the usual place of abode of such person), by warrant under the hands of any such justice or justices to commit (c) [see, also, s. 27], any such person so making default in appearing, or appearing and refusing to

(a) Form (No. 23), post.

(b) Form (No. 26), post.

(c) Form (No. 27), post.

give evidence, to some prison within the jurisdiction of any such justice or justices, there to remain, without bail or mainprize, for any time not exceeding two calendar months, nor less than seven days, or until such person shall submit himself to be examined, and give his evidence before such arbitrator or arbitrators, referee or referees, as aforesaid: provided always, that in case such dispute shall be heard and determined before such offender shall submit to be examined, and give evidence as aforesaid, then and in every such case he, she, or they shall be imprisoned the full term of such commitment."

Sect. 10. "That in case such arbitrators and referees so appointed cannot agree upon and decide such matter or matters in dispute so referred as aforesaid, or shall not make and sign their award within three days after the date of the order of such justice, certifying their appointment, then the said arbitrators and referees shall, without delay, go before the justice by whom they were appointed, and in case of his absence or indisposition, before any other of his majesty's justices of the peace acting in and for the county, stewardry, riding, division, barony, city, burgh, town, liberty, or place, and residing nearest to the place where the meeting to settle such dispute shall have taken place, and shall state to such justice or justices who may be present the points in difference between them the said arbitrators and referees, which points in difference the said justice or justices shall, and is and are hereby authorized and required to hear and determine upon the statement of the arbitrators and referees; and the said justice or justices is and are hereby directed and required to settle and determine the matter in dispute with all possible despatch, and in all cases, within the space of two days after the expiration of the time hereby allowed to the arbitrators and referees to make and sign their award; and the determination of such justice or justices shall be final and conclusive between the parties so differing as aforesaid, without being subject to review or challenge by any court whatsoever."

Sect. 11. "That if either arbitrator or referee shall neglect or refuse to go before such justice of the peace in the manner herein directed, it shall and may be lawful for such justice, after summoning the arbitrators to attend him, to determine the matter or matters in dispute upon the statement and representation of either of the arbitrators who shall come before him."

Sect. 13. "That as well in all such cases of dispute as aforesaid as in all other cases, if the parties mutually agree that the matter in dispute shall be arbitrated and determined in a different mode to the one hereby prescribed, such agreement shall be valid, and the award and determination thereon final and conclusive between the parties, and the same proceedings of distress, sale, and imprisonment, as hereafter mentioned, shall be had towards enforcing such award, (by application to any justice of the peace of the county, stewardry, riding, division, barony, city, town, burgh, or place within which the parties shall reside,) as are by this act prescribed for enforcing awards made under and by virtue of its provisions."

Sect. 14. "That where any work shall have been delivered to any workman by the agent or servant of any master or masters, to be when finished delivered to such agent or servant; and also where two or more persons shall carry on the business of such manufacture as partners, in every such case respectively the like proceedings shall and may be had and made against such agent, servant, or any partner, and shall be as effectual as if the same had been had and made against the principal, or all the partners; and all the said persons respectively shall obey the award made thereupon, and all such order or orders as shall be made by the said justice or justices in or respecting the matters in dispute, and shall be subject to the same proceedings and consequences for refusing or delaying to abide by or perform the same, as if the proceedings had been had against the principal, or against all the partners."

Sect. 15. "That it shall be lawful in all cases for any master or workman, by writing under his hand, to authorize any person to act for him in submitting to arbitration and attending arbitrators or justices touching the matter of any arbitration."

Sect. 16. "That in all cases where any proceedings may be had against a master or masters under this act, or where such proceedings shall have been

ARBITRATIONS BETWEEN.

8 Geo. 4, c. 96.

Proviso.

Adjournment of
complaint from
referees to a justice.

Determination of
justice final.

Proceeding
where one referee
refuses to go be-
fore justice.

Disputes may be
adjusted by any
other mode of
arbitration upon
which the parties
may agree.

Partners, agents,
and servants, to
be considered
principals.

Master not resi-
dent may depute
another person.

Provision for the
case of the master
becoming bank
rupt after pro-
ceedings com-
menced.

ARBITRATIONS
BETWEEN.
5 Geo. 4, c. 96.

commenced, and the master or masters shall become or be bankrupt, or any assignment of his or their estate or effects shall have been made under the said bankruptcy, or otherwise by deed or in law, the factor or trustee upon, or the assignee or assignees of such estate or effects, shall be liable to the proceedings authorized by this act against the master or masters, as fully as the master or masters was or were before the bankruptcy or assignment; and such proceedings may be commenced or carried on against such factor, trustee, assignee, or assignees, who shall fulfil and abide by the award made thereupon, and all such order or orders as shall be made by the said justice or justices in or respecting the matters in dispute, and shall be subject to the same proceedings and consequences for wilfully refusing or delaying to abide by or perform the same, as if the proceedings had been had against the master or masters before his or their bankruptcy, or the assignment of his or their estate or effects; provided that all sums of money to be paid in pursuance of such award or orders shall be recoverable only out of the estate or effects of such master or masters, and not out of the proper money of such factor, trustee, assignee, or assignees."

In whose name proceedings shall be, where the complainant is a married woman or infant.

Sect. 17. "That where any married woman, or infant under the age of twenty-one years, shall have cause of complaint in any of the cases provided for by this act, against any master or masters, his or their agent or servant, or factor or trustee, or assignee or assignees as aforesaid, such complaint may be lodged, and all further proceedings thereupon had, by and in the name of the husband of such married woman, and of the father, or, if dead, of the mother, or if on the death of both parents, of any of the kindred of any such infant, or of the surety or sureties in any indenture of apprenticeship of any such infant, being an apprentice, or of any person nominated by such infant, if he or she shall not have parent, kindred, or surety; and all such proceedings shall be as effectual, valid, and binding, as if such married woman was sole, and such infants were of full age, and pursued by themselves the remedies provided by this act."

Tickets of particulars to be given out with work.

Sect. 18. "That with every piece of work given out by the manufacturer to a workman to be done, there shall (if both parties are agreed) be delivered a note or ticket, in such form as the said parties shall mutually agree upon; and which said note or ticket, in the event of dispute between the manufacturer and workman, shall be evidence of all matters and things mentioned therein or respecting the same."

Duplicates of such tickets.

Sect. 19. "That a duplicate of every such note or ticket shall be made and kept by the master or agent delivering the same, which duplicate shall be evidence of all the matters and things therein contained, in case the workman shall not produce to the arbitrators, or the said justice, as the case may be, the said note or ticket so delivered to him with the said work."

Manufacturers receiving articles not to complain afterwards.

Sect. 20. "That it shall not be allowable to any manufacturer, who shall have received into his possession any article without objection made within twenty-four hours by himself, or his clerk or foreman, afterwards to make any complaint on account of work so received."

Extension of time limited for making award.

Sect. 21. "That if the parties by and between whom the said reference shall take place as aforesaid, shall think it expedient, or be desirous to extend the time hereby limited for the making the award or umpirage, it shall and may be lawful for them to extend the same accordingly by indorsement, according to the form (a) in the schedule hereunto annexed, on the back of the order of the justice of peace, certifying the appointment of the referees, to be signed by both of them in the presence of one or more credible witness or witnesses."

Form of award in schedule annexed.

Sect. 22. "That the award or umpirage to be made upon any reference demanded under this act, shall and may be drawn up and written at the foot or upon the back of the said order, certifying the appointment of the referees, according to the form (b) in the schedule hereunto annexed."

On award being fulfilled, fulfilment to be acknowledged.

Sect. 23. "That upon fulfilment of the award or umpirage, the same shall be acknowledged by the party in whose behalf the same was made, by an acknowledgment at the foot of the said award, in the form (c) of the schedule

(a) Form (No. 24), *post*.
(b) Form (No. 23), *post*.

(c) Form (No. 25), *post*.

hereunto annexed, which, with the award, shall thereupon be delivered to the party fulfilling the same." COMBINATIONS
AMONGST.

Sect. 24. "That if any party shall refuse or delay to fulfil an award under this act, for the space or term of two days after the same shall have been reduced into writing, it shall be lawful for any such justice as aforesaid, on application of the party aggrieved, and he is hereby required, by warrant under his hand, according to the form (a) of the schedule hereunto annexed, or in some other form to the like effect, to cause the sum and sums of money directed to be paid by any such award to be levied by distress and sale of any goods and chattels of the person or persons liable to pay the same, together with all costs and charges attending such distress and sale, such sale to take place within such time, not exceeding five days, as the said justice shall think proper; and the overplus, if any, to arise by such sale, to be rendered to the owners of the goods and chattels distrained; and in case it shall appear by any return to such warrant, that no sufficient distress can be readily had, which return may be in the form (b) contained in the schedule hereunto annexed, or in some other form to the like effect, it shall be lawful for any such justice as aforesaid, and he is hereby required, by warrant under his hand according to the form (c) of the schedule hereunto annexed, or in some other form to the like effect, to commit the person or persons so liable as aforesaid to the common gaol, or some house of correction within his or their jurisdiction, there to remain without bail for any time not exceeding three months."

5 Geo. 4, c. 56.
Performance of award may be enforced by distress, and failing that the party refusing shall be imprisoned.

Sect. 25. "And whereas cases may occur where the recovery of such sum or sums of money by distress and sale of the goods and chattels of the defaulter may appear to the justice or justices of the peace by whom the warrant is to be issued to be attended with consequences ruinous, or in an especial manner injurious, to the defaulter and his family: to prevent which consequences, be it further enacted, that the said justice or justices, in all such cases, shall withhold such warrant, and commit the defaulter to the common gaol, or some house of correction within his or their jurisdiction, there to remain without bail for any time not exceeding three months; such commitment to be in the form (d) or to the effect of the form in the schedule to this act annexed."

In certain cases, the warrant of distress shall be withheld, and the defaulter committed to prison.

Sect. 26. "That where any person shall be committed to prison for refusing or delaying to fulfil an award as aforesaid, and such person shall, at any time during the period of his or her imprisonment, pay to the governor or keeper of the prison the full amount of the sum awarded, with all reasonable expenses incurred through such refusal or delay, it shall be lawful for such governor or keeper of such prison, and he is hereby required, forthwith to discharge such person from his custody."

On payment of sum awarded, with costs, party discharged.

Sect. 27. "That the justice or justices by whom any person or persons shall be committed to prison for not appearing as a witness, or not submitting to be examined, shall cause the warrant or order for such commitment to be drawn up in the form (e) or to the effect set forth in the schedule to this act."

Form of warrant of commitment in form in schedule. (e)

Sect. 28. "That no appeal by *certiorari* shall lie against any proceedings under this act."

No appeal or *certiorari*.

Sect. 29. "That no proceedings under this act shall be invalid for want of form."

Want of form.

Sect. 30. "That the following and no higher fees shall be allowed to be taken for any proceeding under this act; that is to say,

Fees for proceedings under this act.

"To the clerk of the justice or justices:

"For each summons, 2d.; for every oath or affirmation, 3d.; for drawing and entering the order, 4d.; for every warrant, 6d.

"To the constable or other peace-officer:

"For service of summons or order, 4d.; for executing warrant of distress and sale of goods, 1s.; for custody of goods distrained, *per diem*, 3d.; for every mile he shall travel, 3d.; for every caption, 6d.

(a) Form (No. 28), *post*.

(b) Form (No. 29), *post*.

(c) Form (No. 30), *post*.

(d) Form (No. 31), *post*.

(e) Form (No. 31), *post*.

COMBINATIONS
AMONGST.

5 Geo. 4, c. 96.

Costs and ex-
penses, how to
be settled.

"And a table of fees, signed by the clerk to such justice or justices, shall be hung up in every place where any general or quarter session, or petty or other sessions of the peace, shall be held."

Sect. 31. "That all costs, time, and expenses attending the application to justices to be made under this act, and of the arbitration pursuant thereon, shall be settled by the arbitrators or arbitrator by whom such dispute shall be settled; and where the same shall be determined by any justice of the peace, pursuant to this act, then the costs, time, and expenses aforesaid shall be settled by such justice; and where the arbitrators appointed as aforesaid cannot agree as to the costs, time, and expenses to be allowed, the same shall be settled by the justice or justices of the peace by whom the said arbitrators were named; and in case of his absence or indisposition, by any justice of the peace for the same county, stewardry, riding, division, barony, city, burgh, liberty, town, or place nearest to the place at which the arbitrators met to settle the dispute: provided always, that no master manufacturer, his foreman or agent, shall in any case be allowed for costs, time, or expenses, by the said justice or justices, unless it shall appear to him or them that the proceedings of the workmen were vexatious and oppressive."

Proceedings ex-
empt from stamp-
duty.

Sect. 32. "That every agreement, submission, award, ticket, matter, or thing under and by virtue of this act, or relating to any other mode of arbitration as aforesaid, shall and may be drawn up and written upon unstamped paper."

Limitation of
actions for ex-
ecuting act.

Sect. 33. "That no action shall be brought against any arbitrator, justice of the peace, constable, headborough, or other officer, or against any other person or persons whomsoever, for any matter or thing whatsoever done or committed under, or by virtue, or in the execution of this act, unless such action shall be brought within six calendar months next after the doing or committing of such matter or thing."

In action for
executing act.
General issue.

Sect. 34. "That, if any action or suit shall hereafter be commenced or prosecuted against any person or persons for any thing done under, by virtue, or in the execution of this act, such person or persons may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff shall become nonsuited, or suffer discontinuance, or forbear further prosecution, or if judgment shall be given for the defendant or defendants, such defendant or defendants shall recover his, her, or their full costs, and for which he, she, or they shall have like remedy as in cases where costs by law are given to defendants."

Costs.

Proviso for acts
not hereby re-
pealed.

Sect. 35. "That nothing in this act contained shall extend, or be construed to extend to repeal, abridge, annul, or make void any of the clauses, provisions, remedies, or powers contained in any law or statute now in force, and not repealed by this act."

XXII. Combinations amongst Masters or Workmen.

[5 Geo. IV. c. 96; 6 Geo. IV. c. 129.]

5 Geo. 4, c. 96,
repeals 39 & 40
Geo. 3, c. 106,
and 41 Geo. 3,
(U.K.) c. 38,5 Geo. 4, c. 96,
s. 1,

By the 5 Geo. IV. c. 96, s. 1, the statutes 39 & 40 Geo. III. c. 106, and 41 Geo. III. (U.K.) c. 38 (which amended the 39 & 40 Geo. III. c. 106) are repealed, save and except so far as the same may have repealed any prior act or enactment.

By the 6 Geo. IV. c. 129, reciting that, "whereas an act was passed in the last session of Parliament, intituled 'An Act to repeal the Laws relative to the Combination of Workmen, and for other Purposes therein mentioned,' by which act various statutes and parts of statutes, relating to combinations among workmen for fixing the wages of labour, and for regulating and controlling the mode of carrying on any manufacture, trade, or business, were repealed, and other provisions were made for protecting the free employment of capital and labour, and for punishing combinations interfering with such freedom, by means of violence, threats, or intimidation; and whereas the provisions of the said act have not been found effectual; and whereas such combinations

are injurious to trade and commerce, dangerous to the tranquillity of the country, and especially prejudicial to the interests of all who are concerned in them; and whereas it is expedient to make further provision, as well for the security and personal freedom of individual workmen in the disposal of their skill and labour, as for the security of the property and persons of masters and employers, and for that purpose to repeal the said act, and to enact other provisions and regulations in lieu thereof: it is enacted, "that from and after the passing of this act, the said recited act of the last session of Parliament shall be and the same is hereby repealed."

COMBINATIONS
AMONGST.

6 Geo. 4, c. 129.

repealed.

Certain acts shall stand and remain repealed, viz. 33 Edw. 1, st. 1, in part, so far as relates to combination of workmen.

Sect. 2. "That, from and after the passing of this act, so much of an act made in the thirty-third year of the reign of King Edward I., concerning conspirators who do confederate or bind themselves by oath, covenant, or other alliance, as relates or extends to combinations or conspiracies of workmen or other persons to obtain an advance of or to fix the rate of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or to regulate or control the mode of carrying on any manufacture, trade, or business, or the management thereof, or to combinations or conspiracies of masters, manufacturers, or other persons, to lower or fix the rate of wages, or to increase or alter the hours or duration of the time of working, or to increase the quantity of work, or to regulate or control the mode of carrying on any manufacture, trade, or business, or the management thereof, or to oblige workmen to enter into work; and also so much of a statute made in the third year of King Henry the Sixth, as relates to the annual congregations and confederacies made by masons in their general chapters assembled; and also a certain act passed in the Parliament of Ireland, in the thirty-third year of King Henry the Eighth, intituled, 'An Act for Servants' Wages;' also a certain act passed in the second and third years of King Edward the Sixth, intituled, 'An Act touching Victuallers and Handicraftsmen;' and also a certain other act passed in the Parliament of Scotland, in the fifth Parliament of King James the First of Scotland, intituled, 'Of the Fees of Craftsmen, and the Price of their Worke;' also a certain other act passed in the Parliament of Scotland, in the fifth Parliament of King James the First of Scotland, intituled, 'Of the Fees of Workmen;' also a certain other act passed in the Parliament of Scotland, in the fifth Parliament of King James the First of Scotland, intituled, 'Of Witches and Masones;' also a certain other act passed in the Parliament of Scotland, in the seventh Parliament of King James the First of Scotland, intituled, 'The Price of Silk Workmanship;' also a certain other act passed in the Parliament of Scotland, in the fifth Parliament of Queen Mary of Scotland, intituled, 'The Price of Craftesmenne's Work, of Meate and Drinke in Tavernes;' also a certain other act passed in the Parliament of Scotland, in the seventh Parliament of King James the Sixth of Scotland, intituled, 'Anent the Setting of Order and Price in all Stuiiffe;' also so much of a certain other act passed in the thirteenth and fourteenth years of King Charles the Second, intituled, 'An Act for Regulating the Trade of Silk-Throwing,' as provides and enacts, that the corporation of silk-throwers should not, by virtue of that act, nor any thing therein contained, make any orders, ordinances, or by-laws, to set any rates or prices whatsoever upon the throwing of silk, to bind or enforce their members to work at; also a certain other act passed in the seventh year of King George the First, intituled, 'An Act for Regulating the Journeymen Tailors within the Weekly Bills of Mortality,' excepting so much thereof as relates to the recovery of wages, or to journeymen tailors or servants departing from their service, or refusing to enter into work or employment, as therein mentioned; also so much of an act passed in the twelfth year of King George the First, intituled, 'An Act to prevent unlawful Combinations of Workmen employed in the Woollen Manufactures, and for better Payment of their Wages,' as provides that contracts, covenants, or agreements, by-laws, ordinances, rules, and orders, made or entered into by or between persons brought up in, or professing, using, or exercising the art and mystery of a woolcomber or weaver, or journeyman woolcomber or journeyman weaver, as therein mentioned, shall be illegal, null, and void, and as punishes woolcombers, weavers, journeymen woolcombers and weavers, and other persons concerned in the woollen manufactures, for

3 Hen. 6, c. 1.

33 Hen. 8, st. 1, c. 9, (1.)

2 & 3 Edw. 6, c. 16.

5 Parl. Jac. 1, (5.)

7 Parl. Jac. 1, (5.)

5 Parl. Mary, (5.)

7 Parl. Jac. 6, (5.)

13 & 14 Car. 2, c. 15, s. 10.

7 Geo. 1, st. 1, c. 13, ss. 4, 6.

12 Geo. 1, c. 34, s. 1, 8.

- COMBINATIONS AMONGST.** keeping up, continuing, acting in, making, entering into, signing, sealing, or being knowingly concerned in, presuming, or attempting to put in execution
- 6 Geo. 4, c. 120.** such agreements, by-laws, ordinances, rules, or orders, as therein mentioned, and as provides that the provisions of the said act of the twelfth of George the First, just recited, shall extend to the persons therein mentioned; also so much
- 3 Geo. 2, c. 14 (1.) in part.** of a certain other act passed in the Parliament of Ireland, in the third year of King George the Second, intituled, 'An Act to prevent unlawful Combinations of Workmen, Artificers, and Labourers, employed in the several Trades and Manufactures of this Kingdom, and for the better Payment of their Wages; as also to prevent Abuses in making of Bricks, and to ascertain their Dimensions,' as declares illegal, null, and void, the contracts, covenants, agreements, by-laws, ordinances, rules, and orders, therein mentioned, and makes it an offence to keep up, continue, act in, make, enter into, sign, seal, or be knowingly concerned therein, and to presume, or to attempt to put the same into execution, as therein mentioned; also so much of a certain other act passed in the
- 17 Geo. 2, c. 28 (1.) in part.** Parliament of Ireland, in the seventeenth year of King George the Second, intituled, 'An Act for Continuing several Statutes now near Expiring, and for Amending other Statutes, and for other Purposes therein mentioned,' as declares the assemblies therein mentioned to be unlawful assemblies, the houses where they meet common nuisances, and punishes the master and mistress thereof, as likewise those who enter into the contracts, covenants, or articles therein mentioned, or collect or pay money for the support of persons as therein mentioned; also so much of a certain other act passed in the twenty-second
- 22 Geo. 2, c. 27, s. 12.** year of King George the Second, intituled 'An Act for the more effectual Preventing Frauds and Abuses committed by Persons employed in the Manufacture of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, and Silk Manufactures, and for Preventing unlawful Combinations of Journeymen Dyers and Journeymen Hotpressers, and of all Persons employed in the said several Manufactures, and for the better Payment of their Wages,' as extends those provisions of the said act of the twelfth of
- 29 Geo. 2, c. 33, s. 1.** George the First herein mentioned, to the persons therein mentioned; also so much of a certain other act passed in the twenty-ninth year of King George the Second, intituled, 'An Act to render more effectual an Act passed in the Twelfth Year of the Reign of his late Majesty King George, to prevent unlawful Combinations of Workmen employed in the Woollen Manufactures, and for the better Payment of their Wages; and also an Act passed in the Thirteenth Year of the Reign of his said late Majesty, for the better Regulation of the Woollen Manufacture, and for Preventing Disputes among the Persons concerned therein, and for Limiting a Time for Prosecution for the Forfeiture appointed by the aforesaid Act, in case of the Payment of the Workmen's Wages in any other manner than in Money,' as relates to the making of rates for the payment of wages, continuing and altering and notifying them as therein mentioned; also so much of a certain other act passed in the Parliament of
- 3 Geo. 2, c. 17 (1.) in part.** Ireland, in the third year of King George the Third, intituled, 'An Act for Continuing and Amending certain Temporary Statutes heretofore made, for the better Regulation of the City of Cork, and for Enlarging the Salary of the Treasurer, and for the better Regulating the Sale of Coals in the said City, and for Erecting and Continuing Lamps in the same, and for the better Preserving the Streets and Highways therein, and for Confirming and Establishing a Court of Conscience in the said City, and for Regulating the Assize of Bread therein, and for Securing the Quays by Parapet Walls,' as relates to the assemblies and combinations of artificers, journeymen, apprentices, labourers, and manufacturers therein mentioned; also so much of a certain other act passed in the
- 3 Geo. 2, c. 24 (1.) in part.** Parliament of Ireland, in the third year of King George the Third, intituled, 'An Act for the better Regulation of the Linen and Hempen Manufactures,' as relates to meeting, in order to consult upon or enter into rules, agreements, or combinations, to ascertain or fix the price of labour or workmanship, and as relates to administering oaths or declarations tending to fix the price of wages or workmanship, and as relates to issuing and delivering tickets, certificates, and tokens of parties being licensed to work, and as relates to rules, orders, and regulations relating to the price or wages of labour or workmanship, and

as relates to oaths to enter into combinations or agreements to ascertain or fix the price of wages or workmanship, and to oaths and combinations not to work for a particular employer, as therein mentioned; also a certain other act passed in the eighth year of King George the Third, intituled, 'An Act to amend an Act made in the Seventh Year of King George the First, intituled, "An Act for Regulating the Journeymen Tailors within the Weekly Bills of Mortality;"' also so much of a certain other act, passed in the Parliament of Ireland, in the eleventh and twelfth years of King George the Third, intituled, 'An Act for the Regulation of the City of Cork, and for other Purposes therein mentioned relative to the said City,' as relates to the meetings and assemblies therein mentioned, the administering and taking oaths and declarations, to the tickets, certificates, advertisements, and writings, and to the rules, orders, agreements, and regulations, and to the combinations and agreements to ascertain or fix the price of wages, labour, or workmanship, or not to work, and as relates to the refusal or neglect, by persons not in actual service, to work on application made, and as relates to the detection and discovery of assemblies and combinations for any of the above-recited purposes, and as relates to ascertaining wages as therein mentioned; also so much of a certain other act, passed in the Parliament of Ireland in the eleventh and twelfth years of King George the Third, intituled, 'An Act for Regulating the Journeymen Tailors and Journeymen Shipwrights of the City of Dublin, and the Liberties thereof, and of the County of Dublin,' as punishes those who permit the clubs and societies therein mentioned to be kept or held in their houses or apartments, and as makes the contracts, covenants, and agreements therein mentioned, and oaths to enforce them, illegal, and as punishes persons for keeping up, continuing, acting in, making, entering into, signing, sealing, or being knowingly interested or concerned in such contracts, covenants, or agreements, and as punishes persons not retained or employed for refusing to enter into work or employment on request made, as therein mentioned, and as regulates the hours of work and the rate of wages as therein mentioned; also so much of a certain other act, passed in the thirteenth year of King George the Third, intituled, 'An Act to empower the Magistrates therein mentioned to settle and regulate the Wages of Persons employed in the Silk Manufacture within their respective Jurisdictions,' as relates to settling, regulating, ordering, and declaring the wages and prices of work, and the notification thereof, and makes it an offence to deviate from such settlement, regulation, order, and declaration, or to ask, receive, or take more or less wages, or larger or less prices, than shall be so settled, or to enter into combinations, or for that purpose to decoy or solicit, or to assemble, as therein mentioned, and as relates to the detection of such offences, and as makes it an offence to retain or employ journeymen weavers, out of the limits therein mentioned; or to give, allow, or pay, or cause to be given, allowed, or paid, more or less wages than shall be settled, as therein mentioned; also so much of a certain other act, passed in the seventeenth year of King George the Third, intituled, 'An Act for the better Regulating the Hat Manufactory,' as relates to the keeping up, acting in, making, entering into, signing, sealing, or being knowingly concerned in the contracts, covenants, or agreements, by-laws, ordinances, rules, or orders of the club, societies, or combinations therein mentioned, or the presuming or attempting to put the agreements, by-laws, ordinances, rules, or orders, in execution, or to the attending meetings, clubs, societies, or combinations, or to the summoning, giving notice to, or calling upon, collecting, demanding, or receiving, persuading, enticing, or inveigling, or endeavouring to persuade, entice, or inveigle, paying money, making or entering into subscriptions or contributions as therein mentioned; also so much of a certain other act, passed in the Parliament of Ireland in the nineteenth and twentieth years of King George the Third, intituled, 'An Act to prevent Combinations, and for the further Encouragement of Trade,' as declares that combinations in trade are public nuisances, and that the acts therein enumerated shall be considered as evidences of unlawful combinations, and sufficient for the conviction of any person who shall be guilty of the same, and as avoids

COMBINATIONS
AMONGST.

6 Geo. 4, c. 129.

8 Geo. 3, c. 17.
11 & 12 Geo. 3,
c. 18. (1.)11 & 12 Geo. 3,
c. 33 (1.) in part.12 Geo. 3, c. 66,
s. 1 to 3. (a)17 Geo. 3, c. 55,
ss. 3, 4.19 & 20 Geo. 3,
c. 19 (1.) in part.

(a) It seems that this act is wholly repealed by 5 Geo. IV. c. 66.

COMBINATIONS AMONGST.	rules, by-laws, and regulations, contrary to its provisions, and oaths for obeying or executing the same, and as provides for the case of an act of combination for which no specific punishment is pointed out, as therein mentioned ; also so much of a certain other act, passed in the Parliament of Ireland, in the nineteenth and twentieth years of King George the Third, intituled, 'An Act for the better Regulation of the Silk Manufacture,' as relates to the wages and prices for work, to combinations to raise wages, and the decoying or soliciting journeymen weavers, as therein mentioned ; also so much of a certain other act passed in the Parliament of Ireland in the nineteenth and twentieth years of King George the Third, intituled, 'An Act for the Regulating the Curing and Preparing Provisions, and for Preventing Combinations among the several Tradesmen and other Persons employed in making up such Provisions, and for Regulating the Butter Trade in the City of Dublin, and for other Purposes therein mentioned,' as relates to summoning persons to appear at meetings and assemblies, and as relates to administering oaths or declarations, to the issuing and delivering of messages, tickets, certificates, tokens, advertisements, or writings, to making or joining in making rules, orders, agreements, and regulations, as therein mentioned, and as relates to taking oaths, or entering into combinations or agreements to ascertain or fix the price of wages, or of labour or workmanship, or to make any rule, order, agreement, or regulation, and to taking oaths, and entering into combinations and agreements not to work for a particular person, as therein mentioned, and as relates to the fixing of wages ; also so much of a certain other act, passed in the Parliament of Ireland, in the twenty-fifth year of King George the Third, intituled, 'An Act for Granting the Sums of Twenty Thousand Pounds, Five Thousand Pounds, and Four Thousand Pounds, to certain Trustees, and for Promoting the several Manufactures therein named,' as relates to the ascertaining the rates of labour and prices of workmanship, as therein mentioned, and as requires an affidavit to be filed previous to the commencement of a suit as therein mentioned ; also so much of a certain other act, passed in the thirty-second year of King George the Third, intituled, 'An Act for Extending the Provisions of an Act made in the Thirteenth Year of the Reign of his present Majesty, intituled, "An Act to empower the Magistrates therein mentioned, to settle and regulate the Wages of Persons employed in the Silk Manufacture within their respective Jurisdictions," to Manufactories of Silk mixed with other Materials, and for the more effectual Punishment of Buyers and Receivers of Silk purloined and embezzled by Persons employed in the Manufacture thereof,' as extend the provisions of the said act of the thirteenth of George the Third, hereby repealed, to the persons therein mentioned ; also a certain other act, passed in the thirty-sixth year of King George the Third, intituled, 'An Act to prevent unlawful Combinations of Workmen Employed in the Paper Manufactory,' also so much of a certain other act, passed in the thirty-ninth year of King George the Third, intituled, 'An Act to explain and amend the Laws relative to Colliers in that Part of Great Britain called Scotland,' as relates to the fixing and appointing of hire and wages ; also an act, passed in the thirty-ninth and fortieth years of King George the Third, intituled, 'An Act to repeal an Act passed in the last Session of Parliament, intituled, "An Act to prevent unlawful Combinations of Workmen," and to substitute other Provisions in lieu thereof,' excepting so much thereof as relates to the adjustment of disputes between masters and workmen, as therein mentioned ; also so much of a certain other act, passed in the forty-third year of King George the Third, intituled, 'An Act to prevent unlawful Combinations of Workmen, Artificers, Journeymen, and Labourers in Ireland, and for other Purposes relating thereto,' as makes illegal and void contracts, covenants, and agreements, for obtaining an advance of wages, or for lessening or altering the hours or time of working, or for decreasing the quantity of work, or for controlling or affecting the conduct or management of any manufacture, trade, or business, and as prohibits the making or entering into, or being concerned in the same, and as punishes persons for so doing, and as relates to the combinations therein mentioned, and as relates to endeavouring
6 Geo. 4, c. 129.	
19 & 20 Geo. 2, c. 24 (1.) in part.	
19 & 20 Geo. 3, c. 36 (1.) in part.	
25 Geo. 3, c. 48, (1.) in part.	
22 Geo. 3, c. 44, s. 1. (a)	
26 Geo. 3, c. 11.	
20 Geo. 3, c. 56, s. 2.	
30 & 40 Geo. 3, c. 106, except ss. 18—22.	
43 Geo. 3, c. 86, s. 1 to 4, and s. 16.	

(a) It seems that this act is wholly repealed by 5 Geo. IV. c. 66.

by gift, persuasion, or solicitation, to prevent persons hiring themselves, and as relates to attending the meetings therein mentioned, or endeavouring to induce the attendance of others, and collecting, demanding, asking, or receiving money, for the purposes therein mentioned, and as relates to persuading, enticing, soliciting, or endeavouring to induce others to enter into or be concerned in the combinations therein mentioned, and to paying money, making or entering into subscriptions or contributions, and to oaths and declarations, and to tickets, certificates, and tokens, and to contributions† supporting and maintaining others, as therein mentioned, and as punishes persons for permitting assemblies in their houses or apartments, as therein mentioned; also a certain other act, passed in the forty-seventh year of King George the Third, intituled, ‘An Act to declare that the Provisions of an Act, made in the Parliament of Ireland, in the Thirty-third Year of King Henry the Eighth, relating to Servants’ Wages, shall extend to all Counties of Cities and Counties of Towns in Ireland;’ also so much of a certain other act, passed in the Fifty-seventh year of King George the Third, intituled, ‘An Act to extend the Provisions of an Act of the Twelfth Year of his late Majesty King George the First, and an Act of the Twenty-second Year of his late Majesty King George the Second, against Payment of Labourers in Goods or by Truck, and to secure their Payment in the lawful Money of this Realm, to Labourers employed in the Collieries, or in the Working and Getting of Coal, in the United Kingdom of Great Britain and Ireland, and for extending the Provisions of the said Acts to Scotland and Ireland,’ as did extend to Scotland and Ireland any of the provisions of the acts intended to be repealed by the said recited act of the last session of Parliament; and all enactments in any other statutes or acts which, immediately before the passing of the said recited act of the last session of Parliament, were in force throughout or in any part of the United Kingdom of Great Britain and Ireland, relative to combinations to obtain an advance of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or to regulate or control the mode of carrying on any manufacture, trade, or business, or the management thereof, or relative to combinations to lower the rate of wages, or to increase or alter the hours or duration of the time of working, or to increase the quantity of work, or to regulate or control the mode of carrying on any manufacture, trade, or business, or the management thereof, or relative to fixing the amount of the wages of labour, or relative to the obliging workmen not hired to enter into work, and every enactment enforcing or extending the application of any of the said several enactments so repealed, shall, notwithstanding the repeal of the said recited act of the last session of Parliament, still be and remain repealed, except only so far as the same or any of them may have repealed any former act or enactment.’

COMBINATIONS
AMONGST.

8 Geo. 4, c. 120.

† Sk.

47 Geo. 3, s. 1,
c. 43.57 Geo. 3, c. 122,
s. 2.

And all acts relative to combination of workmen or masters as to wages, time of working, or quantity of work, &c., repealed.

Exception.

Sect. 3. “That from and after the passing of this act, if any person shall by violence to the person or property, or by threats or intimidation, or by molesting or in any way obstructing another, force or endeavour to force any journeyman, manufacturer, workman, or other person hired or employed in any manufacture, trade, or business, to depart from his hiring, employment, or work, or to return his work before the same shall be finished, or prevent or endeavour to prevent any journeyman, manufacturer, workman, or other person not being hired or employed from hiring himself to, or from accepting work or employment from any person or persons; or if any person shall use or employ violence to the person or property of another, or threats or intimidation, or shall molest or in any way obstruct another for the purpose of forcing or inducing such person to belong to any club or association, or to contribute to any common fund, or to pay any fine or penalty, or on account of his not belonging to any particular club or association, or not having contributed or having refused to contribute to any common fund, or to pay any fine or penalty, or on account of his not having complied, or of his refusing to comply, with any rules, orders, resolutions, or regulations made to obtain an advance or to reduce the rate of wages, or to lessen or alter the hours of working, or to decrease or alter the quantity of work, or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof; or if any person shall by violence to

Compelling journeymen to leave employment, or to return work unfinished;

preventing hiring themselves;
compelling them to belong to clubs, &c.;
or to pay fines;

or to alter mode of carrying on business.

COMBINATIONS
AMONGST.

6 Geo. 4. c. 120.

Punishment.

Proviso for meetings for settling rates of wages to be received, or hours of work to be employed by the persons meeting.

Proviso for meetings for rates of wages, &c., to be paid by masters to journeymen, &c.

Offenders compelled to give evidence.

Indemnified.

Justices may summon offenders.

Not appearing, warrants may be issued.

the person or property of another, or by threats or intimidation, or by molesting or in any way obstructing another, force or endeavour to force any manufacturer or person carrying on any trade or business, to make any alteration in his mode of regulating, managing, conducting, or carrying on such manufacture, trade, or business, or to limit the number of his apprentices, or the number or description of his journeymen, workmen, or servants; every person so offending, or aiding, abetting, or assisting therein, being convicted thereof in manner hereinafter mentioned, shall be imprisoned only, or shall and may be imprisoned and kept to hard labour, for any time not exceeding three calendar months."

Sect. 4. "That this act shall not extend to subject any persons to punishment, who shall meet together for the sole purpose of consulting upon and determining the rate of wages or prices, which the persons present at such meeting or any of them, shall require or demand for his or their work, or the hours or time for which he or they shall work in any manufacture, trade, or business, or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices which the parties entering into such agreement, or any of them, shall require or demand for his or their work, or the hours of time for which he or they will work, in any manufacture, trade, or business; and that persons so meeting for the purposes aforesaid, or entering into any such agreement as aforesaid, shall not be liable to any prosecution or penalty for so doing; any law or statute to the contrary notwithstanding."

Sect. 5. "That this act shall not extend to subject any persons to punishment who shall meet together for the sole purpose of consulting upon and determining the rate of wages or prices which the persons present at such meeting, or any of them, shall pay to his or their journeymen, workmen, or servants, for their work, or the hours or time of working in any manufacture, trade, or business, or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices, which the parties entering into such agreement, or any of them, shall pay to his or their journeymen, workmen, or servants, for their work or the hours or time of working in any manufacture, trade, or business; and that persons so meeting for the purposes aforesaid, or entering into any such agreement as aforesaid, shall not be liable to any prosecution or penalty for so doing, any law or statute to the contrary notwithstanding."

Sect. 6. "That all and every persons and person who shall or may offend against this act, shall and may, equally with all other persons, be called upon and compelled to give his or her testimony and evidence as a witness or witnesses on behalf of his majesty, or of the prosecutor or informer, upon any information to be made or exhibited under this act, against any other person or persons not being such witness or witnesses as aforesaid; and that in all such cases every person having given his or her testimony or evidence as aforesaid, shall be and is hereby indemnified of, from, and against any information to be laid, or prosecution to be commenced, against him or her, for having offended in the matter wherein or relative to which he, she, or they shall have given testimony or evidence as aforesaid."

Sect. 7. "And for the more effectually enforcing and carrying into execution the provisions of this act," it is enacted, "that on complaint and information on oath before any one or more justice or justices of the peace, of any offence having been committed against this act, within his or their respective jurisdictions, and within six calendar months before such complaint or information shall be made, such justice or justices are hereby authorized and required to summon the person or persons charged with being an offender or offenders against this act, to appear before any two such justices, at a certain time or place to be specified: and if any person or persons so summoned shall not appear according to such summons, then such justices, (proof on oath having been first made before them of the due service of such summons upon such person or persons, by delivering the same to him or them personally, or leaving the same at his or their usual place of abode, provided the same shall be so left twenty-four hours at the least before the time which shall be appointed to attend the said justices upon such summons), shall make and issue their

warrant or warrants for apprehending the person or persons so summoned, and not appearing as aforesaid, and bringing him or them before such justices; or it shall be lawful for such justices, if they shall think fit, without issuing any previous summons, and instead of issuing the same, upon such complaint and information as aforesaid, to make and issue their warrant or warrants for apprehending the person or persons by such information charged to have offended against this act, and bringing him or them before such justices; and upon the person or persons complained against appearing upon such summons, or being brought by virtue of such warrant or warrants before such justices, or upon proof on oath of such person or persons absconding, so that such warrant or warrants cannot be executed, then such justices shall and they are hereby authorized and required forthwith to make inquiry touching the matters complained of, and to examine into the same by the oath or oaths of any one or more credible person or persons, as shall be requisite, and to hear and determine the matter of every such complaint; and upon confession by the party, or proof by one or more credible witness or witnesses upon oath, to convict or acquit the party or parties against whom complaint shall have been made as aforesaid."

COMBINATIONS
AMONGST.
6 Geo. 4, c. 129.

On their appearance, or proof (on oath) of absconding.

Proceedings.

SECT. 8. "That it shall be lawful for the justices of the peace before whom any such complaint and information shall be made as aforesaid, and they are hereby authorized and required, at the request in writing of any of the parties, to issue his or their summons to any witness or witnesses to appear and give evidence before such justices, at the time and place appointed for hearing and determining such complaint, and which time and place shall be specified in such summons; and if any person or persons so summoned to appear as a witness or witnesses as aforesaid, shall not appear before such justices, at the time and place specified in such summons, or offer some reasonable excuse for the default, or appearing according to such summons, shall not submit to be examined as a witness or witnesses, and give his or their evidence before such justices, touching the matter of such complaint, then and in every such case it shall be lawful for such justices, and they are hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such justice of the peace, of the due service of such summons on every such person, by delivering the same to him or her, or by leaving the same twenty-four hours before the time appointed for such person to appear before such justices, at the usual place of abode of such person), by warrant under the hands of such justices, to commit such person or persons so making default in appearing, or appearing and refusing to give evidence, to some prison within the jurisdiction of such justices, there to remain without bail or mainprize, for three calendar months, or until such person or persons shall submit to be examined and give evidence before such justices as aforesaid."

Justices may summon witnesses.

Non appearance, &c.

Proceedings.

SECT. 9. "That the justices before whom any person or persons shall be convicted of any offence against this act, or by whom any person shall be committed to prison for not appearing as a witness, or not submitting to be examined, shall cause all such convictions and the warrants or orders for such commitments, to be drawn up in the form or to the effect set forth in the schedule to this act annexed."

Punishment.

Form of convictions, &c., set forth in schedule annexed.

SECT. 10. "That the justices before whom any such conviction shall be had, shall cause the same (drawn up in the form or to the effect hereinbefore directed) to be fairly written on parchment, and transmitted to the next general sessions or general quarter sessions of the peace to be holden for the county, riding, division, city, liberty, town, or place wherein such conviction was had, to be filed amongst the records of the said general sessions or general quarter sessions; and in case any person or persons shall appeal, in manner hereinafter mentioned, from the judgment of the said justices, to the said general sessions or general quarter sessions, the justices in such general sessions or general quarter sessions, are hereby required, upon receiving such conviction, to proceed to the hearing and determination of the matter of the said appeal, according to the directions of this act."

Convictions to be transmitted to next general or quarter sessions, to be filed.

SECT. 11. "That in Scotland all prosecutions under this act may be insisted on at the instance of the public prosecutor, and may be judged of, either by

Proceedings under this act in Scotland.

COMBINATIONS
AMONGST.

6 Geo. 4, c. 129.

Appeal to ge-
neral or quarter
sessions.Recognizance.
Security to pro-
secutor.

Costs.

Decision final.

Imprisonment.

No master to act
as justice.

two justices of the peace, or by the sheriff of the county within which the offence may have been committed."

Sect. 12. "That if any person convicted of any offence or offences punishable by this act, shall think himself or herself aggrieved by the judgment of such justices, before whom he or she shall have been convicted, such person shall have liberty to appeal from every such conviction to the next court of general sessions or general quarter-sessions of the peace which shall be held for the county, riding, division, city, liberty, town, or place wherein such offence was committed; and that the execution of every judgment so appealed from shall be suspended, in case the person so convicted shall immediately enter into recognizances before such justices (which they are hereby authorized and required to take), himself in the penal sum of 10*l.*, with two sufficient sureties in the penal sum of 10*l.* of lawful money of Great Britain, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the said next general sessions or general quarter-sessions, and to pay such costs as the said court shall award on such occasion; and the justices in the said next court of general sessions or general quarter-sessions are hereby authorized and required to hear and determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable, to be paid by either party, which decision shall be final; and if, upon hearing the said appeal, the judgment of the justices before whom the appellant shall have been convicted shall be affirmed, such appellant shall immediately be committed by the said court to the common gaol or house of correction, without bail or mainprize, according to such conviction, and for the space of time therein mentioned."

Sect. 13. "That no justice of the peace, being also a master in the particular trade or manufacture, in or concerning which any offence is charged to have been committed under this act, shall act as such justice under this act."

XXIII. Assaults on Conspiracy to raise Wages.

[9 Geo. IV. c. 31, s. 25.]

Assaults, in pur-
suance of a con-
spiracy to raise
wages, punish-
able with hard
labour.

By the 9 Geo. IV. c. 31, s. 25, it is enacted, that where any person shall be charged with and convicted of any of the following offences as misdemeanors; that is to say, amongst others, *ante*, of any assault committed in pursuance of any conspiracy to raise the rate of wages; in any such case, the court may sentence the offender to be imprisoned, with or without hard labour, in the common gaol or house of correction, for any term not exceeding two years; and may also (if it shall so think fit) fine the offender, and require him to find sureties for keeping the peace. See this offence fully considered, title, *Assaults*, Vol. I. p. 278.

XXIV. Assaults on Seamen, &c. to prevent them Working.

[9 Geo. IV. c. 31, s. 26.]

Assault on any
keelman, &c., to
prevent him from
working, punish-
able, before two
magistrates, with
imprisonment not
exceeding three
months.

By the 9 Geo. IV. c. 31, s. 26, it is enacted, that if any person shall unlawfully and with force hinder any seaman, keelman, or caster from working at or exercising his lawful trade, business, or occupation, or shall beat, wound, or use any other violence to him, with intent to deter or hinder him from working at or exercising the same; every such offender may be convicted thereof before two justices of the peace, and imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding three calendar months: provided always, that no person, who shall be punished for any such offence by virtue of this provision, shall be punished for the same offence by virtue of any other law whatsoever. See this provision, and the general clauses and law, more fully collected, title, *Assault*, Vol. I. p. 283.

See also, as to seamen in general, *ante*, *Seamen*.

XXV. Servants Firing Houses.

[6 Anne, c. 31; 14 Geo. III. c. 78.]

By the 6 Anne, c. 31, s. 3, if any menial or other servant, through negligence or carelessness, shall fire or cause to be fired any dwelling-house or out-house, and be convicted thereof by oath of one witness before two justices, he shall forfeit 100*l.* to the churchwardens, to be distributed amongst the sufferers by such fire, as to the said churchwardens shall seem fit; and if he shall not pay the same immediately on conviction, on demand by the churchwardens, he shall be committed by the said justices to some workhouse or house of correction, for eighteen months, there to be kept to hard labour. *See* title *Burning*, Vol. I. p. 542, and a form there, p. 545.

Servants firing houses.

By the 14 Geo. III. c. 78, s. 84, the same offence is provided against in exactly the same words, and the same penalty is imposed; but the words "common gaol" are added to the words "workhouse or house of correction." But this act is only applicable to offences of this kind in the *bills of mortality*, &c.

XXVI. Servant Stealing his Master's Goods.

[7 & 8 Geo. IV. c. 29.]

In title *Marriage*, Vol. III., full information as to this offence will be found.

It is an indictable offence to incite and solicit a servant to steal his master's goods, though the servant do not steal the goods, and no other act be done, except the soliciting and inciting. This was decided in the case of *R. v. Higgins*, 2 *East*, 5; *et vide* Vol. I., p. 292.

Soliciting servant to steal master's goods.

And from the same case it appears that such offence is indictable at the quarter-sessions, as falling in with that class of offences, which, being violations of the law of the land, have a tendency, as it is said, to a breach of the peace, and are therefore cognizable by that jurisdiction. *See, ante*, *Attempts*, Vol. I.

Indictable offence.

XXVII. When Master may beat his Servant.

The master is allowed by law, with moderation, to chastise his apprentice for negligence or other misbehaviour, 1 *Bla. Com.* 428; 1 *Haw.* c. 29; 1 *B. & C.* 469; 1 *D. & R. M. C.* 339, title, *Apprentice*, Vol. I.; though he cannot delegate that authority to another. 9 *Co.* 76.

Master beating servant.

But a master has no such power over a domestic servant. 1 *B. & C.* 469.

And if the master or mistress beat any workman or labourer, it may be a good cause of discharge, on complaint to the justices. *Dalt.* c. 58, p. 141; *F. N. B.* 168; 1 *Bla. Com.* 428.

Where a master, in correcting his servant, happens to occasion his death, it shall be deemed homicide by misadventure; yet if in his correction he be so barbarous as to exceed all bounds of moderation, and thereby occasion the servant's death, it is manslaughter at least; and if he make use of an instrument improper for correction, and apparently endangering the servant's life, it is murder. 1 *Haw.* c. 29, s. 5; title *Mistreatment*, Vol. III. p. 245.

And if the workman or labourer shall depart out of his master's service, and the master happen afterwards to lay hold of him, yet the master in this case may not beat or forcibly compel such workman or labourer against his will to return or tarry with him, or do his service; but either he must complain to the justice, for such workman or labourer's departure, or he may have an action of covenant against him. *Dalt.* c. 121, p. 281, 282.

See, further, title *Assault*, Vol. I. p. 270.

XXVIII. Master may beat another in Defence of his Servant, or Servant in Defence of Master.

Master beating
another in de-
fence of servant.

According to some opinions, a master shall not forfeit a recognizance of the peace for beating another in defence of his servant; nor the servant for beating another in defence of his master. 1 *Haw. c.* 60, s. 24.

But in *Leeward v. Basilee*, 1 *Salk.* 407; 1 *Ld. Raym.* 62; *B. N. P.* 18, it was held by the court, that a servant may justify an assault in defence of his master, but not a master in defence of his servant; because he might have an action for the loss of his service.

In the case of *Tickel v. Read*, on an action of assault and battery, the defendant pleaded a special plea in justification, that he assisted his servant, whom the plaintiff was beating. It was contended, that the law will not justify a master interposing on an assault against his servant, by assaulting the person who beats the servant, as it doth a servant in like case interposing for his master; because it is the duty of the servant, who is hired to serve and be assistant to his master's person, but not so the master to his servant. On the other hand, it was contended that the duty of the master and servant is reciprocal; and if the servant owe to the master fidelity and obedience, the master owes to the servant protection and defence; and therefore that the defendant might well justify by this plea. *Ld. Mansfield, C. J.*: "I cannot say that a master interposing, when his servant is assaulted, is not justifiable, under the circumstances of the case, as well as a servant interposing for his master: it rests on the relation between master and servant." *Lofft*, 215.

See, further, title *Assault*, Vol. I. p. 270.

XXIX. When Master answerable for Servant's Acts.

Crimes.

The master is indictable for a nuisance done by his servant, as for throwing dirt in the highways. 1 *Ld. Raym.* 264.

The proprietor of a newspaper is liable, criminally as well as civilly, for misconduct in the paper, *e. g.*, for the publication of a libel, though he has nothing to do with the publication, and the whole is conducted by his servants. *R. v. Walter*, 3 *Esp.* 21; *R. v. Alexander, M. & M. C. N. P.*; and see, further, title *Libel*, Vol. III.

But nevertheless it seemeth, that the servant also is indictable in these cases; for *Mr. Hawkins* says, that a servant is not excused the commission of any crime by the command or coercion of his master. 1 *Haw. c.* 1, s. 14.

Torts.

If a servant commit a trespass by the command or encouragement of his master, the master shall be guilty of it, though the servant is not thereby excused, for he is only to obey his master in matters that are honest and lawful. 1 *Bla. Com.* 429.

A master is not liable for the *wilful act* of his servant, as by driving his master's carriage against another, done without the direction or assent of the master. But he is liable to answer for any damage arising to another from the negligence or unskillfulness of his servant acting in his employ. *M Manus v. Crickett*, 1 *East*, 106; *Comyn's Rep.* 469; 3 *Wils* 317.

If a servant driving a carriage, in order to effect some purpose of his own, wantonly strike the horses of another person, and produce an accident, the master will not be liable. But if, in order to perform his master's orders, he strikes, but injudiciously, and in order to extricate himself from a difficulty, that will be negligent and careless conduct, for which the master will be liable, being an act done in pursuance of the servant's employment. *Per Cur.* in *Croft v. Alison*, 4 *B. & A.* 590; and see *Boucher v. Noidstrom*, 1 *Tawn.* 568.

If horses are hired out to draw a private carriage, but are driven by the servant of the person who let them, he shall be liable for any injury done by them. *Sammell v. Wright*, 5 *Esp.* 263.

A person occasionally employed by the defendant as his servant, being sent out by him on his business, took the horse of another person, in whose service he also worked, and, in going, rode over the plaintiff. At the trial, it was left to the jury to say whether or not the horse was taken by the servant with the implied consent or authority of the defendant; and they having found a verdict for the plaintiff, the court refused to grant a new trial. *Goodman v. Kennell*, 1 M. & P. 241; 3 C. & P. 167. S.C.

The owner of a carriage hired four post-horses and two postillions of a livery-stable keeper for the day, to take him from London to Epsom and back. In returning, the postillions damaged the carriage of C.: held, that the livery-stable keeper, as owner of the horses and master of the postillions, was liable to C. for such damage. *Smith v. Lawrence*, 2 M. & R. 1; see the case of *Laugher v. Pointer*, 5 B. & C. 547.

A. and B. are partners in the business of public carriers: by a contract between them, A. finds horses and drivers for certain stages, and B. supplies for the remaining stages. They are, notwithstanding this division of the concern, jointly responsible for the misconduct and negligence of their drivers and servants throughout the whole distance; and it is no defence to B. that the servant by whom an injury is committed was the special servant of A., and hired and paid by A. alone. *Weyland v. Elkins*, Holt, 227, S. C.; 1 Stark. 272; see *Moreton v. Hardern*, 4 B. & C. 223; 6 D. & R. 275, S. C.

A master is liable for the contracts of his servants, within the scope of his employment, on the ground of an authority delegated by the master expressly or impliedly to the servant. *Bac. Ab., Master and Servant*, (K). The responsibility for the act of a domestic servant does not rest on the circumstance of the master being *pater familias*. The master's assent must in all cases appear either by express evidence thereof, or by the proof of facts, from which the law raises an inference that such assent was given. *Chit. Jun., Contr.* 58.

If a person, who has been in the habit of paying ready money, gives his servant money to buy meat for the use of the family, and the servant, instead of paying ready money, orders the meat on credit, and embezzle the money, the master is not liable. *Stubbing v. Heintz, Peake*, 47.

And so, where the master gives the servant money beforehand to pay for goods. *Rusby v. Scarlett*, 5 Esp. 76, *Ellenborough*.

But where he authorizes his servant to take up goods, and afterwards gives him money to pay, if the servant embezzle the money, the master is liable for the goods. *Id.*

When the master of a family is in the habit of paying ready money for articles furnished in certain quantities to his family, if the tradesman suffers other goods of the same sort to be delivered without informing the master, or satisfying himself that they were for his use, when, in fact, they were not, the master shall not be liable. *Pearce v. Rogers*, 3 Esp. 214; and see *Stubbing v. Heinty, Peake*, 47.

A master is not liable for spirituous liquors ordered by his butler in the name of the master, unless he had on former occasions paid for goods so ordered, or there is evidence to show that the butler had authority from the master for so doing. *Maunder v. Comyers*, 2 Stark. 281, *Ellenborough*.

Where articles are furnished to the use of a master, though the servant was by agreement to provide them, the master is liable to the tradesman who furnished them. *Precious v. Abel*, 1 Esp. 360.

If a coachman go in his master's livery, and hire horses, which his master afterwards uses, the master is bound to pay for the hire of the horses, although he had previously agreed to pay the coachman a large salary to provide horses; unless the person of whom the horses were hired had some notice that the coachman hired them on his own account, and not for his master. *Rimell v. Sampayo*, 1 C. & P. 254.

But if a servant employ a tradesman to do any work who has not been employed before by the master, and the tradesman does the work without communication with the master, though the thing to which it was done was the property of the master, he is not liable. *Hiscot v. Greenwood*, 4 Esp. 174.

See, further, *Chit. Jun. Contr.* 60.

XXX. Enticing away, &c. a Servant, and Right to his Services.

Enticing away a servant.

The remedy now pursued for retaining a servant in the service of another is an action by the old master against the new one, and the servant, or either of them, for damages. But, in order to entitle a man to the action, it is as necessary now as when the 35 Edw. III. st. 1. c. 1 (repealed by the 5 Eliz. c. 4), was in force, that the new master should *know* of the servant's engagement with the other at the time of his retaining him, or that he should afterwards refuse to restore him upon information or demand. *Fawcett v. Beavres et al.* 2 Lev. 63; 1 Leon. 240.

The retaining another person's servant during the time he has agreed to serve his present master, as it is an ungentlemanlike, so it is also an illegal act: for every master has, by his contract, purchased for a valuable consideration the service of his domestics for a limited time. The inveigling or hiring his servant, which induces a breach of this contract, is therefore an injury to the master; and for that injury the law has given him a remedy by a special action on the case; and he may also have an action against the servant for the non-performance of his agreement. 3 Bla. Com. 142; F. N. B. 167.

And an action will lie for receiving or continuing to employ the servant of another after notice, without enticing him away. Therefore, where no fault could be imputed to the defendant for taking the party into his service in the first instance, because then he had no notice of such party's prior engagement, yet, as soon as he had notice of that fact, he ought to have discharged him. A person who contracts with another to do certain work for him is the servant of that other till the work is finished, and no other person can employ such servant to the prejudice of the first master: the very act of giving him employment is affording him the means of keeping out of his former service. *Blake v. Lanyon*, 6 T. R. 221.

Hart v. Aldridge, 1 Cowp. 54. On a special verdict, the jury found that the plaintiff, being a shoemaker, employed a journeyman to make up shoes for him, and retained him by the piece, but not for any certain time. This man being hired by another, and leaving his service, the work being unfinished, the shoemaker brought his action against the person so hiring him for enticing his servant out of his service. The question was, whether this person be a *servant* of the plaintiff, so that he may maintain an action and recover damages on his being enticed from his service; and whether there be sufficient upon the verdict to entitle the plaintiff to recover. Lord Mansfield, C. J., asked how they defined the word *journeyman*. It was answered, that they apprehended it to mean no more than a man who was out of his time, and was not master. Lord Mansfield said farther, "Doth not a journeyman imply the particular relation of *servant* to the man? It is apparently a *service*. The jury have found expressly that he was *hired* by the piece; and this is a sufficient retainer. *Journeyman*, in the original etymology, is a servant for the *day*, in whose service the master hath certainly an interest. Many servants are taken to work by the piece; if otherwise, they would often be idle. This case lies upon the circumstance of his being found a *journeyman*; otherwise it might have been that the master took any who pleased to work for him to stay as long as he pleased, and go when he pleased." And Aston, J., said, "Every man is entitled to an action who hath sustained damages by wrong: therefore, if a servant be retained for any special work, and departs from this unfinished, an action will lie against any who seduces him to depart. And the seducer or enticer is much the greater offender." Judgment for the plaintiff.

No action lies for seducing a servant from his master, who had paid the penalty stipulated by his articles for leaving him. *Bird v. Randall*, 3 Burr. 1345; 1 Bla. R. 373, 387. S. C.

Nor for inducing a servant to leave his master's service at the expiration of the time for which he had hired himself, although he had no previous intention of quitting his master's service. *Nichol v. Martyn*, 2 Esp. 734.

Where negroes, in a state of slavery in a colony of Spain, escaped from their

master's plantation, and took refuge and were received on board a *British* ship of war, whilst she was stationed at an island captured by his majesty's arms from the *United States* in time of war, and, after notice given to the officers commanding on the station that they were runaway slaves, the officers carried them to and left them at a *British* colony: held, by the Court of King's Bench, that a *British* merchant, resident in the colony, who claimed the slaves as his property, could not maintain an action against the officers for harbouring and detaining such negroes, although, by the *lex loci* from whence they escaped, slavery was permitted and tolerated. *Forbes v. Cochrane*, 3 D. & R. 679; 2 B. & C. 448, S.C.

See, farther, title *Apprentices*, Vol. I. p. 175.

A servant while in his master's service may solicit business from his customers for himself, when his service is at an end, and he sets up on his own account. *Nichol v. Martyn*, 2 Esp. 732, *Kenyon*.

When servant may solicit customers.

If a servant, while in the employ of his master, make an invention, that invention belongs to the servant, and not to the master; but *semble*, that if the master employ a skilful person for the express purpose of inventing, the inventions made by him will so much belong to the master, as to enable him to take out a patent for them. *Blossam v. Elsee*, 1 C. & P. 558.

When master entitled to servant's inventions, &c.

XXXI. Characters of Servants.

[32 Geo. III. c. 56.]

By the 32 Geo. III. c. 56, "for Preventing the Counterfeiting of Certificates of the Characters of Servants," after reciting, that "whereas many false and counterfeit characters of servants have either been given personally or in writing by evil-disposed persons, being, or pretending to be, the master, mistress, retainer, or superintendent of such servant, or by persons who have actually retained such servants in their respective service, contrary to truth and justice, and to the peace and security of his majesty's subjects; and whereas the evil herein complained of is not only difficult to be guarded against, but is also of great magnitude, and continually increasing, and no sufficient remedy has hitherto been applied:" it is enacted, "that, from and after the 1st day of July, 1792, if any person or persons shall falsely personate any master or mistress, or the executor, administrator, wife, relation, housekeeper, steward, agent, or servant of any such master or mistress, and shall either personally or in writing give any false, forged, or counterfeited character to any person offering him or herself to be hired as a servant into the service of any person or persons, then, and in such case, every such person or persons so offending shall forfeit and undergo the penalty and punishment hereinafter mentioned and in that behalf provided."

32 Geo. 3, c. 56.

Any person personating a master, &c., or giving a false character to a servant;

Sect. 2. "That, from and after the said 1st day of July, 1792, if any person or persons shall knowingly and wilfully pretend, or falsely assert, in writing, that any servant has been hired or retained for any period of time whatsoever, or in any station or capacity whatsoever, other than that for which or in which he, she, or they shall have hired or retained such servant in his, her, or their service or employment, or for the service of any other person or persons, that then, and in either of the said cases, such person or persons so offending, as aforesaid, shall forfeit and undergo the penalty or punishment hereinafter mentioned and in that behalf provided."

or asserting that a servant has been hired for a period of time, or in a particular station;

Sect. 3. "That, from and after the said 1st day of July, 1792, if any person or persons shall knowingly and wilfully pretend, or falsely assert, in writing, that any servant was discharged, or left his, her, or their service at any other time than that at which he or she was discharged, or actually left such service, or that any such servant had not been hired or employed in any previous service, contrary to truth, that then, and in either of the said cases, such person or persons shall forfeit and undergo the penalty or punishment hereinafter mentioned and in that behalf provided."

or was discharged at any other time, or had not been hired in any previous service; contrary to the fact;

CHARACTERS OF SERVANTS.

32 Geo. 3, c. 56.
or any person
offering himself
as a servant,
pretending to
have served
where he has
not served, or
with a false
certificate, or
who shall alter
any certificate;
or who, having
been before in
service, shall
pretend not to have
been in such
service;

shall, on conviction, forfeit 20*l*.

Application of
forfeiture.

Persons not paying
penalty with
costs, or not
giving notice of
appeal, &c., may
be committed.

Informers, though
entitled to part of
the penalty, a
competent witness.

Offenders discovering accomplices before information, indemnified.

Justices may
cause convictions
to be drawn up
in the following

Sect. 4. "That, from and after the said 1st day of July, 1792, if any person shall offer himself or herself as a servant, asserting or pretending that he or she hath served in any service in which such servant shall not actually have served, or with a false, forged, or counterfeit certificate of his or her character, or shall in anywise add to or alter, efface or erase any word, date, matter, or thing contained in or referred to in any certificate given to him or her by his or her last or former actual master or mistress, or by any other person or persons duly authorized by such master or mistress to give the same, that then, and in either of the said cases, such person or persons shall forfeit and undergo the penalty or punishment hereinafter mentioned and in that behalf provided."

Sect. 5. "That, from and after the said 1st day of July, 1792, if any person or persons, having before been in service, shall, when offering to hire himself, herself, or themselves, as a servant or servants in any service whatsoever, falsely and wilfully pretend not to have been hired or retained in any previous service as a servant, that then, and in such case, such person or persons shall forfeit and undergo the penalty or punishment hereinafter mentioned and in that behalf provided."

Sect. 6. "That, from and after the said 1st day of July, 1792, if any person or persons shall be convicted of any either of the offence or offences aforesaid, by his, her, or their confession, or by the oath of one or more credible witness or witnesses, before two or more justices of the peace for the county, riding, division, city, liberty, town, or place, where the offence or offences shall have been committed (which oath such justices are hereby empowered and required to administer), every such offender or offenders shall forfeit the sum of 20*l*.; one moiety whereof shall be paid to the person or persons on whose information the party or parties offending shall have been convicted, and the other moiety thereof shall go and be applied for the use of the poor of the parish wherein the offence shall have been committed; and if the party who shall have been so convicted shall not immediately pay the said sum of 20*l*. so forfeited, together with the sum of 10*s*. for the costs and charges attending such conviction, or shall not give notice of appeal, and enter into recognizance in the manner hereinafter mentioned and in that behalf provided, such justices shall and may commit every such offender to the house of correction, or some other prison, of the county, riding, division, city, liberty, town, or place, in which he or she shall have been convicted, there to remain, and be kept to hard labour, without bail or mainprize, for any time not exceeding three months, nor less than one month, or until he or she pay the said sum so forfeited, together with such costs and charges, as aforesaid."

Sect. 7. "And whereas it most frequently happens, that no person is present at or privy to the giving of the character of a servant, except the persons by and to whom the same is given;" it is enacted, "that the informer, in any of the cases aforesaid, shall be, and shall be deemed and taken to be, a good and competent witness in law, notwithstanding he shall be entitled to a part of the said penalty where the same shall be levied, as aforesaid."

Sect. 8. "That if any servant or servants, who shall have been guilty of any of the offences aforesaid, shall, before any information has been given or lodged against him, her, or them for such offence, discover and inform against any person or persons concerned with him, her, or them, in any offence against this act, so as such offender or offenders be convicted of such offence in manner aforesaid, every such servant or servants so discovering and informing shall thereupon be discharged and indemnified of, from, and against all penalties and punishments to which, at the time of such information given, he, she, or they might be liable by this act, for or by reason of such his, her, or their own offence or offences."

Sect. 9. "And, for the more easy and speedy conviction of offenders against this act," it is enacted, "that all justices of the peace, before whom any person or persons shall be convicted of any offence against this act, shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen: *videlicet*,

"Be it remembered, that on the day of , in the year of our CHARACTERS
 Lord , A. B. is convicted before us, , two of his OF SERVANTS.
 majesty's justices of the peace for the county of , [set forth the offence, 32 Geo. 3, c. 56.
 and the time and place when and where the same was committed, as the case Form.
 may be]. Given under our hands and seals, the day and year aforesaid."

Sect. 10. "That if any person shall think himself or herself aggrieved by any thing done in pursuance of this act, such person may appeal to the justices of the peace at the next general or quarter sessions of the peace to be held for the county or place wherein the cause of complaint shall have arisen; such appellant entering into a recognizance, with two sufficient sureties, in the sum of 20l. each, conditioned to try such appeal, and abide the order of, and to pay such costs as shall be awarded by such justices at such general or quarter sessions, upon due proof of such notice being given, as aforesaid, and of the entering into such recognizance; which said justices shall hear and finally determine the causes and matters of such appeal in a summary way, and award such costs to the parties appealing or appealed against as they, the said justices, shall think proper, and the determination of such general or quarter sessions shall be final, binding, and conclusive, to all intents and purposes; and no conviction or order made concerning any matters aforesaid, or any other proceedings to be had, touching the conviction or convictions of any offender or offenders against this act, shall be quashed for want of form, or be removed by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

Parties aggrieved may appeal to the quarter sessions, where the matter may be finally determined in a summary way, &c.

Proceedings not to be quashed for want of form, or removed by *certiorari*.

Mr. *Christian* mentions a case tried at the sittings after *Trinity Term*, 1792, at Guildhall, against a person who had knowingly given a false character of a man to the plaintiff, who was thereby induced to take him into his service. But this servant soon afterwards robbed his master of property to a great amount, for which he was executed. And the plaintiff recovered damages against the defendant to the extent of his loss. This was an action of great importance to the public, and there can be no doubt but it was founded on strict principles of law and justice. *Parley v. Freeman*, 1 *Bla. Com.* 432, *Christian's Edit.*

Master not bound to give a servant a character, and liability for giving a false character.

In an action on the case, the declaration stated that the plaintiff's wife, having been retained by the defendant as a servant, was dismissed from the said service; that, after she was so dismissed, she had applied to a person of the name of *Stewart*, for the purpose of being retained and hired as a servant; that *Mrs. Stewart* was ready and willing to have hired and taken her into her service, if the defendant would have given her a character, and such character was satisfactory; that it was the duty of the defendant by law to have given her such character as she deserved; and then assigned a breach, that the defendant, not regarding such her duty, wholly refused to give her any character whatever; by reason whereof the said *Mrs. Stewart* refused to hire her into her said service. Plea of not guilty. On opening the pleadings, *Ld. Kenyon*, C. J., addressing himself to the plaintiff's counsel, said, "Can you make any thing of this action? I have read an abstract of the record; it is impossible to support this action." Upon the plaintiff's counsel replying, that he had no case, his lordship proceeded to observe, "There is no case; there is no foundation in law for this action. What one's real feeling would dictate, is one thing; but can you say that there is a legal obligation on one to give a servant a character at all? You are, indeed, to take care, if you do give a character, to give a true one; but you are not bound to give a character at all. I am confident that this action cannot be maintained." *Carrol v. Bird*, *Sittings at Westm.* after *T. T.* 40 *Geo. III.*; 3 *Esp.* 201. S. C. And see *Ashover v. Brampton*, *Cald.* 11, *ante*.

And when a master gives a bad character of a servant, the latter cannot maintain an action against the former, unless the account given be malicious as well as false. *B. N. P.* 8.

When liable or not to action for slander.

Even though the master make specific charges of fraud. *Weatherstone v. Hancock*, 1 *T. R.* 110.

In an action for libel, it appeared that the defendant, with whom the plain-

FORMS.

tiff had lived as servant, in answer to inquiries respecting her character, wrote a letter imputing misconduct to her whilst in that service, and after she left it; and the defendant also made similar parol statements to two persons that had recommended the plaintiff to her. Held that neither the letter itself nor the parol statements proved malice, and that consequently the letter was a privileged communication, and the plaintiff not entitled to recover. *Child v. Afleck*, 9 B. & C. 403.

In order to maintain an action against a master for giving a false character of a servant, extraordinary circumstances of *express malice* must be proved. *Per* Ld. Mansfield, C. J., *Hargrave v. Le Breton*, 4 Burr. 2425.

To prove such express malice, evidence that the character given is *false*, is admissible. *Rogers v. Clifton*, 3 B. & P. 587; *King v. Waring*, 5 Esp. 13.

A. having discharged his servant, and hearing that he was about to be engaged by B., wrote a letter to B., and informed him that he had discharged him for misconduct. B., in answer, desired further communication. A. then wrote a second letter to B., stating the grounds on which he had discharged the servant. In an action by the servant against A., for a libel contained in this letter, it was held, that, assuming the letter to be a privileged communication, it was properly left to the jury to consider whether the second letter was written by A. *bonâ fide*, acting under a belief that he was discharging a duty which he owed to the party who was about to take the plaintiff into his service, or with an intention to injure the servant. *Pattison v. Jones*, 8 B. & C. 578. *Et, per Bayley, J.*:—"Generally speaking, any thing said or written by a master when he gives the character of a servant is a privileged communication. But if the supposed libel be not communicated *bonâ fide*, it does not fall within the protection which the law gives to a privileged communication."

XXXII. Forms, List of.

CONVICTION on 58 Geo. III. c. 51, for paying Workmen's Wages otherwise than in Money, (No. 1.)

INFORMATION on 20 Geo. II. c. 19, 31 Geo. II. c. 11, and 4 Geo. IV. c. 34, s. 5, of a Workman, to recover Wages, (No. 2.)—SUMMONS of a Master or Employer thereon, (No. 3.)—ORDER of Payment of Wages thereon, (No. 4.)—WARRANT of Distress thereon, (No. 5.)

INFORMATION on 20 Geo. II. c. 19, 6 Geo. III. c. 19, and 4 Geo. IV. c. 34, s. 3, of a Master against a Workman for Misbehaviour, (No. 6.)—WARRANT thereon (No. 7.)—ORDER thereon, and COMMITMENT of Workman, abating his Wages during confinement—or ORDER thereon, abating his Wages instead of confinement—or ORDER thereon, discharging him, (No. 8.)

INFORMATION on 20 Geo. II. c. 19, s. 2, of Workman against Master for ill-Usage, (No. 9.)—SUMMONS of Master thereon, (No. 10.)—DISCHARGE of Workman thereon, (No. 11.)

INFORMATION on 20 Geo. II. c. 19, 6 Geo. III. c. 25, s. 4, and 4 Geo. IV. c. 34, s. 3, against a Workman absenting Himself from his Service before Contract completed, (No. 12.)—WARRANT thereon, (No. 13.)—ORDER and COMMITMENT thereon, (No. 14.)—ORDER thereon, abating Wages only, or discharging Workman, (No. 15.)

INFORMATION on 4 Geo. IV. c. 34, s. 3, against Manufacturers, Labourers, or others, for not entering into Written Contract of Service, (No. 16.)

CONVICTION on 17 Geo. III. c. 56, s. 10, 12, for having Furlained Woollen Materials, &c., in possession, without giving a good Account thereof, (No. 17.)

INFORMATION on 22 Geo. II. c. 27, s. 7, against Workman, for not returning Materials not used, &c., (No. 18.)

INFORMATION on 32 Geo. III. c. 56, s. 1, for Personating a Master, and giving a false Character, (No. 19.)

INFORMATION on 32 Geo. III. c. 56, s. 2, for falsely Asserting that a Servant was in a particular Service, (No. 20.)

INFORMATION on 32 Geo. III. c. 56, s. 3, for falsely Asserting that the Servant was discharged at another time, or that he had not been Hired in a Person's Service, (No. 21.)

INFORMATION on 32 Geo. III. c. 56, s. 4, against a Servant offering Himself with a false Certificate of Character, (No. 22.)

ARBITRATIONS, &c., on 5 Geo. IV. c. 96,—Award to be Written at foot or back of Order of Justices certifying the Reference, (No. 23.)—INDORSEMENT of enlargement of Time for Award, (No. 24.)—ACKNOWLEDGMENT of Fulfilment of Award, to be written at foot or back thereof, (No. 25.)—OATH to be administered by Arbitrators or Justice to the Parties and Witnesses, (No. 26.)

COMMITMENT of a Witness, (No. 27.)—WARRANT of Distress, (No. 28.)—CONSTABLE's return thereto, (No. 29)—COMMITMENT thereon, (No. 30)—COMMITMENT where Warrant of Distress withheld, (No. 31.)

CONVICTION and Commitment on 6 Geo. 4, c. 129, (No. 32.)

COMMITMENT under like statute of a Person summoned as a Witness, (No. 33.)

(No. 1.)

—shire } Be it remembered, that on this day of , at , Conviction on
to wit. } in the said county of C. D., of , in the said 58 Geo. 3, c. 81,
county of , was duly convicted before us, J. P. and L. M. (two of his for paying work
majesty's justices of the peace in and for the county aforesaid), in the penalty of men's wages
 , for having paid, or caused to be paid, the sum of , due to otherwise than
A. B., of the parish of , for wages for work done for him, the said C. D., in money. (a)
in the trade or occupation of , otherwise than as provided and directed by
an act passed in the fifty-eighth year of his majesty King George the Third, intituled,
"An Act to amend certain Acts passed in the Fourth Year of the Reign of King Edward the Fourth; First and Tenth Years of the Reign of Queen Anne; the First, Twelfth, and Thirteenth Years of the Reign of King George the First; the Thirteenth, Twenty-Second, and Twenty-Ninth Years of the Reign of King George the Second; and the Thirteenth and Fifty-Seventh Years of the Reign of King George the Third; prohibiting the Payment of the Wages of the Workmen in certain Trades otherwise than in the Lawful Coin or Money of this Realm." Given under our hands and seals, the day and year first above written.

(No. 2.)

— } The information and complaint of A. S., late of , in the county Information of a
to wit. } aforesaid, husbandman [as the case may be; see the words of the workman, &c.,
statute, ante, 400, &c.], exhibited before me, J. P., Esq., one of his majesty's justices for wages, on
of the peace in and for the said county, the day of , in the year ; 20 Geo. 2, c. 19,
who, on his oath, saith, ; 31 Geo. 2, c. 11,
 and 4 Geo. 4,
 c. 34, s. 5. (b)

That at Whitsuntide last [or on, &c., the real time], he was hired and employed by A. M., (c) of aforesaid, in the county aforesaid [farmer], to be his servant in husbandry [or, artificer, handicraftsman, miner, &c., as the case may be], for a certain term, to wit, the term of one half-year then next following [as the case shall be], for the wages of ; that he, the said A. S., hath duly performed the said service; (d) and that he, the said A. M., refuseth to pay to him, the said A. S., the wages justly due unto him for the said service; * and thereupon he, the said A. S., prayeth that justice may be done, and that the said A. M. may be summoned before me, the justice aforesaid, to answer unto the said complaint.

Before me, J. P.

A. S.

(a) *Ante*, p. 365. The act gives this form.

(b) *Ante*, p. 400. To give the justice jurisdiction, the wages in question must not exceed £10 with regard to any servant, nor £25 with regard to any artificer, &c.; see *ante*, 400.

(c) As to who is the employer, see *ante*, p. 408.

(d) As to when the wages are due, see *ante*, 363. It should seem, that wages are sometimes due without actual service; as where the labourer has been always ready to complete the service, and the master has improperly dismissed him. In such a case, the above information should be different. See *ante*, p. 400, 401, 407.

(No. 3.)

Summons of
master or em-
ployer, &c.
thereon.

County of } To the Constable of , in the said county.

Whereas information and complaint hath been made unto me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, upon the oath of A. S., late of , in the said county, husbandman [&c., as the case may be; see the words of the statute, ante, p. 400, &c.], that at Whitsuntide, &c. [here set out the complaint, as stated in the information, as in form, No. 1, as the case may be, down to the *]. These are therefore to command you forthwith to summon the said A. M. to appear before me at , in the said county, on the day of this present month of , at the hour of in the [afternoon] of the same day, to show cause why the said wages should not be paid. And be you then there to certify what you shall have done in the premises. Given under my hand and seal, the day of , in the year of the reign of .

(No. 4.)

Order for pay-
ment of wages
thereon. (a)

County of } Whereas information and complaint hath been made unto me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, upon the oath of A. S., late of , in the said county, husbandman, [&c. as the case may be], that at Whitsuntide last, &c. [see the information, and state the complaint as therein stated.] And whereas the said A. M. having appeared before me, in pursuance of my summons for that purpose, hath not proved to me that the wages have been duly paid unto the said A. S., nor hath showed to me any just cause why the said wages should not be paid, and hath not paid the same, and the said wages are justly due unto the said A. S., as aforesaid; [or, and whereas it appears to me, on the oath of A. C., constable of aforesaid, that he, the said A. C., by virtue of my precept to him directed, did duly summon the said A. M. to appear before me at a certain time and place therein prefixed, to show cause why the said wages should not be paid, and the said A. M. hath neglected to appear according to the said summons, and hath not showed any cause why the said wages should not be paid, and hath not paid the same]; I, therefore, having duly examined into and considered the truth and matter of the said complaint, on the oath of the said A. S. [or, on the oaths of the said A. S., and of G. H. and I. J., witnesses produced by him, the said A. S., do hereby adjudge, determine, and order, that he, the said A. M., upon due notice hereof [or, upon the day of instant or next], do pay, or cause to be paid, to him the said A. S., the sum of , which appears to me to be justly and reasonably due from the said A. M. to the said A. S., as and for his wages, as aforesaid. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and .

J. P. (L. S.)

(No. 5.)

Warrant of dis-
tress for same.
(b)

County of } To the Constable of , in the said county.

Whereas A. S., late of , in the said county, husbandman [as the case may be, as in the information], hath complained unto me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, that A. M., of , in the said county [farmer], hath refused to pay unto him the said A. S., the wages justly due unto him for service in [husbandry, or as the case may be], duly performed by him, the said A. S., for the said A. M. And whereas the said A. M. having appeared before me, in pursuance of my summons for that purpose, hath not proved to me that the said wages have been paid to him, the said A. S., nor hath shown any just cause why the same should not be paid, and hath not paid the same, and the said wages are justly and reasonably due unto the said A. S., as aforesaid, [or, and whereas the said A. M. hath been duly summoned by me to show cause to me why the said wages should not be paid,

(a) Ante, p. 400, 401, 407.

(b) See the enactments, ante, 401, 407.

but he, the said *A. M.* hath neglected to appear according to the said summons, and hath not shown any cause why the said wages should not be paid, and hath not paid the same; I, therefore, the said justice, upon due examination and consideration had thereof, on the day of now last past, by writing under my hand and seal, did thereupon adjudge, determine, and order, that he, the said *A. M.*, should pay, or cause to be paid, to him the said *A. S.*, upon due notice thereof, [or, upon the day of instant, or next], the sum of , which appeared to me to be justly and reasonably due from the said *A. M.* to him, the said *A. S.*, as and for his wages, as aforesaid. And whereas it appears to me that the said *A. M.*, on the said day of now last past, had due notice of my said order, and that due demand of the said sum of was then [or, was on the day of instant or last] made of him, the said *A. M.*, by him the said *A. S.*, but that he, the said *A. M.*, did not then pay, nor hath yet paid, the same, nor any part thereof.—These are therefore to command you to make distress of the goods and chattels of him, the said *A. M.*; and if, within the space of [four] days next after such distress by you made, the said sum of , together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and, out of the money arising by the sale thereof, that you do pay the said sum of unto him the said *A. S.*, returning the overplus upon demand unto him, the said *A. M.*, the reasonable charges of taking, keeping, and selling the said distress being thereout first deducted. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and . J. P. (L. S.)

(No. 6.)

County of } Be it remembered, that on this day of , in the year , P. R., of , in the county aforesaid, farmer, [or, steward, &c. of the said P. R.—see, ante, p. 406, as the case may be], complaineth and maketh oath before me, J. P., Esq., one of his majesty's justice of the peace in and for the said county, that P. S., late of aforesaid, in the county aforesaid, servant in husbandry [or as the case may be] did, on the day of in the year of our Lord , at in the county aforesaid, contract with the said P. R., to serve him, the said P. R., as a servant in husbandry, [or, as the case may be], for [here state the time of contract], and did then and there enter into such service, and that the said P. S. afterwards, and whilst he was in the said service, to wit, on the day of in the year of our Lord , and on other days and times afterwards, was in the execution of the said contract, and otherwise respecting the same guilty of divers misdemeanors, miscarriages, misconduct, and ill-behaviour, in this, to wit, that he, the said P. S. [here set forth the offence];* and thereupon he, the said P. R., prayeth that justice may be done, &c. [as in form, No. 2]. P. R.

Before me, J. P.

Information of a master against a workman for misbehaviour, on 20 Geo. 2, c. 19, 6 Geo. 2, c. 19, s. 4, and 4 Geo. 4, c. 24, s. 2, after entering into service. (a)

(No. 7.)

County of } To the Constable of

Whereas information and complaint hath been made before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, by P. R., of in the said county, farmer, [as the case shall be], upon the oath of the said P. R., against P. S., late of aforesaid, in the county aforesaid, servant in husbandry [as the case shall be] &c., [here set forth the complaint, as in the information No. 6, to the *]. These are therefore to command you forthwith to bring the said P. S. before me, to answer unto the said complaint, and to be further dealt with according to law. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and .

Warrant against a workman thereon.

(a) See the enactments, ante, 401, 5, 6. See the forms, post, No. 11, 16.

FORMS.

(No. 8.)

Order and commitment thereon, and abatement of wages during confinement. (a)

County of } To the Constable of _____, in the said county, and to the Keeper of _____ the [House of Correction] at _____, in the said county.

Whereas information and complaint hath been made before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, by P. R., of _____, in the said county, husbandman [or, by P. T., the steward, &c., of the said P. R., as the case shall be], upon the oath of the said P. R. [or, of the said P. T.], against P. S., late of _____ aforesaid, in the county aforesaid, servant in husbandry [as the case shall be] to the said P. R., that, &c. [here set forth the complaint as stated in the information, No. 6.] And whereas the said P. S., in pursuance of my summons [or, warrant, as the case is] for that purpose, hath appeared before me to answer the said complaint, but hath not proved that he is not guilty of the said complaint and charge, [or, if the defendant did not appear, see the form No. 11, post]. And whereas, in pursuance of the statutes in that case made and provided, I have duly examined the proofs and allegations of both the said parties, touching the matter of the said complaint, and, upon due consideration had thereof, have adjudged and determined that he, the said P. S., did contract as aforesaid, and hath in his said service and employment been guilty of divers misdemeanors, miscarriage, misconduct, and ill-behaviour, towards the said P. R., in that he, the said P. S., [here set forth the particular offence]; and I do therefore convict him, the said P. S., of the said offence, in pursuance of the statutes in that case made and provided.* These are therefore to command you, the said constable, forthwith to convey the said P. S. to the said house of correction at _____ aforesaid, and to deliver him to the keeper thereof, together with this warrant; and I do hereby command you, the said keeper, to receive the said P. S. into your custody in the said house of correction, there to remain and be held to hard labour for the space of _____ [the time not to exceed three months] from the date hereof. And I do also order that the said P. S. shall abate from his wages, to be paid him by the said P. R., the sum of _____, for the said period of _____, during which he the said P. S., shall be so confined in the said house of correction; and I do hereby discharge the said P. R. from the payment of the said sum of _____, as part of the wages of him, the said P. S. And for your so doing, this shall be your sufficient warrant. Given under my hand and seal, the _____ day of _____, in the year of our Lord one thousand eight hundred and _____

J. P. (L. S.)

(No. 8, a.)

Order thereon abating wages instead of committing servant. (b)

[Proceed as in the preceding form, No. 8, from the word "whereas," to the *, omitting the direction to the constable, and then thus.] I do therefore hereby order, as a punishment for the said offence [or, offences], that the said P. S. shall abate the sum of _____, the whole of the wages due to him, the said P. S., for his said services [or, shall abate from his wages, due to the said P. S. for his said services, to be paid to him by the said P. R., the sum of _____, part thereof]; and do hereby discharge the said P. R. from the payment of the said sum of _____, the whole [or, part] of the wages of him, the said P. S., for his said services. Given under my hand and seal, the _____ day of _____, in the year of our Lord one thousand eight hundred and _____

J. P. (L. S.)

(No. 8, b.)

Order thereon discharging the servant instead of any other punishment.

[Proceed as directed in the preceding form, and then thus.] I do therefore hereby order, as a punishment for the said offence [or, offences], that the said P. S. be discharged, and do hereby discharge him, the said P. S., from his said contract, service, and employment, and the said P. R. from keeping him, the said P. S. Given under my hand and seal, the _____ day of _____, in the year of our Lord one thousand eight hundred and _____

J. P. (L. S.)

(a) *Ante*, p. 401, 406. The commitment must not be for more than three months.

(b) See the act, *ante*, 406. The defendant may be punished in either of these three modes.

(No. 9.)

FORMS.

County of } *Be it remembered, that this* *day of* *, in the year*
 P. S., of *, in the county aforesaid, husbandman*
&c. [as the case may be, see the act, ante, p. 104], complaineth and maketh oath
before me, J. P., Esq., one of his majesty's justices of the peace in and for the said
county, that at Michaelmas last [the real time] he, the said P. S., was hired and
employed by P. R., of *aforesaid, in the county aforesaid, farmer [as the*
case may be], to be servant in husbandry, &c. [as the case may be] to him, the
said P. R., for the space of *[as the case may be]; and that he, the said*
P. S., did accordingly, at Michaelmas last [the real time], as aforesaid, enter upon,
and afterwards until this present time hath continued and doth continue in, the said
service and employment; and that he, the said P. R., during the said service and em-
ployment, hath misused him, the said P. S., and particularly [here set forth the special
offences]. And thereupon the said P. S. prayeth that justice may be done in the pre-
misses, &c. [as in No. 2, ante]. *P. S.*
Before me, J. P.

Information of a
workman against
master, for ill-
usage, on 20 Geo.
2, c. 19, s. 2. (a)

(No. 10.)

County of } *To the Constable of* .
 Whereas complaint hath been made unto me, J. P., Esq., one of his majesty's jus-
tices of the peace in and for the said county, upon the oath of P. S., of
in the said county, husbandman [or, labourer, &c., as the case may be], that at
Michaelmas last [the real time] he, the said P. S., was hired and employed by P. R.,
of *aforesaid, in the said county, farmer, [as the case may be], to be*
servant in husbandry, &c. [as the case may be], to him, the said P. R., for the space
of *[or as the case shall be]; and that he, the said P. S., did accordingly,*
at Michaelmas last [the real time], as aforesaid, enter upon, and afterwards until this
present time hath continued and doth continue in, the said service and employment;
and that he, the said P. R., during the said service and employment, hath misused him,
the said P. S., and particularly [here set forth the special offences]. These are there-*
fore to require you, in his majesty's name, to summon the said P. R. to appear before me,
on *next, at the house of* *, in* *, in the said county,*
at the hour of *in the afternoon of the same day, to answer unto the said*
complaint. And be you then there to certify what you shall have done in the execution
thereof. Given under my hand and seal, the *day of* *, in the year* .

Summons of
master thereon.

(No. 11.)

[Proceed as in form No. 10, beginning at the word "whereas," and ending at
the *, and then thus.] *And whereas the said P. R., in pursuance of my summons*
for that purpose, hath appeared before me, to answer unto the said complaint, but hath
not proved that he is not guilty of the said complaint and charge, and, on the contrary,
it hath been fully and duly proved before me upon the oath of the said P. S., [and also
on the oath of C. D., &c., as the case may be], to my satisfaction, that he, the said
P. R., hath misused him, the said P. S., in his service and employment, as aforesaid,
and particularly [here set forth the special offence or offences]; [or, and whereas
it appears to me, upon the oath of P. T., constable of *aforesaid, that he, the*
said P. T., by virtue of my precept to him directed, did duly summon him, the said P. R.,
to appear before me at a reasonable time therein prefixed, to answer unto the said com-
plaint, and he, the said P. R., hath neglected to appear according to the said sum-
mons; and whereas it hath been fully and duly proved before me upon oath, to my
satisfaction, that he, the said P. R., hath misused him, the said P. S., in his service and
employment, as aforesaid, and particularly [here set forth the particular offence or
offences]: I do therefore hereby order, in pursuance of the statute in that case made
and provided, that he, the said P. S., be discharged, and do hereby discharge him, the
said P. S., of and from his said service and employment. Given under my hand and
seal, the *day of* *, in the year* .

Order of dis-
charge of work-
man thereon.

(a) See the enactment, ante, p. 401.

FORMS.

(No. 12.)

Information on 20 Geo. 2, c. 19, s. 2, 6 Geo. 3, c. 25, s. 4, 4 Geo. 4, c. 34, s. 3, against a workman, absenting himself from service before contract completed. (a)

County of } Be it remembered, that this day of , in the year , P. R., of , in the county aforesaid, farmer [or, steward, &c., as the case may be], complaineth and maketh oath before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, that D. E., late of aforesaid, in the said county, servant in husbandry, &c. [as the case may be], did, on, &c., at, &c., contract with the said P. R. to serve the said P. R. as a servant in husbandry, &c. [as the case may be], for [here state the time of the contract], and did then and there enter into such service; and that afterwards and before the term of the said contract was completed, to wit, on, &c., and on divers days and times afterwards, that is to say, for the space of days, absented himself from his said service, contrary to his said contract; * and thereupon he, the said P. R., prayeth that justice may be done, &c. [as in No. 2].

Before me, J. P. P. R.

(No. 13.)

Warrant thereon. County of } To , the Constable of , in the said county.

Whereas information and complaint hath been made before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, by P. R., of , in the said county, farmer, &c. [or, steward, &c., as the case may be], upon the oath of the said P. R. that D. E., late of aforesaid, in the said county, servant in husbandry, &c., [here proceed as in the information, supra, No. 12, to the *, and then thus]. These are therefore to command you to bring the said D. E. before me, to answer unto the said complaint, and to be further dealt with according to law.— Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and .

(No. 14.)

Order and commitment thereon. County of } To , the Constable of , in the said county, and to the , in the said county.

Whereas information and complaint hath been made before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, by P. R., of , in the said county, farmer, &c., [as the case may be], upon the oath of the said P. R., that D. E., late of aforesaid, in the said county, servant in husbandry, &c. [as the case may be], did, on, &c., at, &c., contract with the said P. R. to serve the said P. R. for, &c. [here proceed to state the complaint as in the information, No. 12, to the *, and then thus]. And whereas the said D. E., in pursuance of my summons [or, warrant, as the case may be], for that purpose hath appeared before me, to answer the said complaint, but hath not proved that he is not guilty of the said complaint and charge [or, if the defendant did not appear, see the form No. 11]; and whereas, in pursuance of the statutes in that case made and provided, I have duly examined the proofs and allegations of both the said parties, touching the matter of the said complaint, and, upon due consideration had thereof, have adjudged and determined that he, the said D. E., did contract with the said P. R. to serve him, the said P. R., as aforesaid, and did afterwards absent himself from the said service before the term of his said contract was completed, as aforesaid; and I do therefore convict him, the said D. E., of the said offence, in pursuance of the statutes in that case made and provided. These are therefore to command you, the said constable, forthwith to convey the said D. E. to the said house of correction at aforesaid, and to deliver him to the keeper thereof, together with this warrant; and I do hereby command you, the said keeper, to receive the said D. E. into your custody in the said house of correction, and him there safely keep for the space of [not exceeding three months, nor less than one month], from the date hereof; * and I do also order that the said P. R. shall abate, &c. [here proceed to order an abatement of the wages as in form, ante, No. 8]; and, for your so doing, this shall be your sufficient warrant. Given under my hand and seal, the day of , in the year of our Lord one thousand eight hundred and .

(a) See the enactments, ante, 401, 405, 406.

(No. 15.)

FORMS.

If the justice, instead of committing the offender to prison, abate the wages only, proceed as in the preceding form, No. 14, from the word "whereas" to the *, and then proceed as in form (No. 8, a,) to the end.

Order abating wages only, or discharging de-
fendant.

If the justice, instead of committing the servant or abating his wages, only discharge him, then proceed as in the preceding form, No. 14, from the word "whereas," to the *, and then proceed as in form (No. 8, b,) to the end.

(No. 16.)

— } *Be it remembered, that on, &c., at, &c., N. O., of, &c., personally cometh be-*
to wit. } *fore me, J. P., one of his majesty's justices of the peace in and for the said*
county, and, upon his oath, complaineth to and informeth me, that C. D., being a ser-
vant in husbandry, &c. [as the case may be], did, on, &c., at, &c., contract with the
said N. O. to serve him, the said N. O. [state the terms of the contract shortly]; and
that the said C. D. did not afterwards enter into or commence his said service accord-
ing to his contract aforesaid (the said contract being in writing, and signed by the
contracting parties aforesaid); and did then and there neglect to fulfil his contract afore-
said, contrary to the form of the statute in such case made and provided. Whereby,
&c. [Conclude as usual.]

Information on
4 Geo. 4, c. 24,
s. 3, against la-
bourers or others,
for not entering
into service ac-
cording to written
contract. (a)

Taken and sworn before me, the
of , 18 .

day }
J. P. }

N. O.

An order may be readily framed from this, and a warrant or commitment may be framed from the forms of warrant or commitment, ante, No. 13, 14.

(No. 17.)

— } *Be it remembered, that on the* day of , *in the year of*
to wit. } *our Lord one thousand eight hundred and* , *C. D., of*
in the said county, [labourer], is convicted before us, J. P. and L. M., two of his ma-
jesty's justices of the peace in and for the said county; for that, on the day of
, in the year aforesaid, at, &c., T. Y. and M. N., Esqs., two of his majesty's jus-
tices of the peace in and for the said county, upon complaint made to them upon oath by
one I. J., being a credible person, that there was cause to suspect that certain purloined
and embezzled materials of [wool, &c.], were concealed in the [dwelling-house] (c) of
the said C. D. aforesaid, by virtue of a warrant under their hands and seals, pursuant
to the statute in such case made and provided, did cause the said [dwelling-house] to
be searched in the day-time; and that, upon such search, under the said warrant, cer-
tain materials, used in the manufacture of [wool], to wit, [10lbs. weight of cotton
wool], suspected to be purloined and embezzled, were found in the same [dwelling-house];
and the said materials so found, as aforesaid, and the said C. D., was thereupon, to
wit, on the said day of , *brought before us, the said J. P. and*
L. M.; and the said C. D. being so brought before us, the said last-mentioned justices
did not then, or at any other time, give any account, to the satisfaction of us, the said
justices, how he came by the said materials, contrary to the statute in that case made
and provided; whereby the said C. D. hath forfeited the sum of 20l., being his first
offence; one moiety thereof is to be paid to the said I. J., being the informer in this
behalf, and we adjudge the other moiety thereof to be paid to the churchwardens and
overseers of the poor of the said parish of , *for the use of the poor of the*
said parish. (d)

Conviction on
17 Geo. 3, c. 56,
s. 10, for having
purloined wool-
len, &c., mate-
rials, in posses-
sion, without
giving good ac-
count thereof. (b)

(a) See ante, p. 406. See a form in
9 B. & C. 603, held bad.

(b) See ante, p. 388, 382. The
twenty-first section gives the formal
parts of the conviction, ante, 391.

(c) See the words of the act, ante,
p. 388.

(d) See the 58 Geo. III. c. 51, ante,
p. 365.

FORMS.

(No. 17, a.)

The like where the Justices appoint a time for defendant to produce persons to account for the defendant's possession of the materials in like stat. s. 12. (a)

[Proceed as in the preceding form to the *, and then thus]. *Did request of us to appoint a reasonable time to produce one E. F., whom he alleged to be the person duly entitled to sell and dispose of the said materials, of and from whom he bought and received the same, and also one G. H., a credible witness, to prove the sale and delivery thereof; and we did therefore appoint the said day of , being a reasonable time, for the purpose aforesaid; and we did issue our summons to the constable of the [parish] of , in the said county, where the said E. F. and G. H. did reside, to appear before us, on the said day of , to be examined and give evidence on oath as to the matter aforesaid; on which said day of , the said E. F. and G. H. did appear before us, and, being sworn and examined, did severally depose, that they had not any knowledge of the said materials so found in the said [dwelling-house] of the said C. D., as aforesaid; and the said C. D. did not give any account, to the satisfaction of us, the said justices, how he came by the said materials, contrary to the statute in that case made and provided; whereby, &c. [conclude as in form, No. 17].*

(No. 18.)

Information on 22 Geo. 2, c. 27, s. 7, against workman, for not returning materials not used. (b)

State the offence thus: *That C. D., late of, &c., on, &c., at, &c., being a person then and there hired and employed to prepare and work up [silk] for one N. O. [as the case may be, see the words of the act, ante, p. 383]; and, being then and there entrusted by the said N. O. with divers materials, to wit, &c. [here state them], in order to prepare, work up, and manufacture the same; and, not having then and there used all the said materials in the preparing, working up, and manufacturing of the same, did then and there neglect and delay, for the space of [eight] days after the said materials were so prepared, worked up, and manufactured, as aforesaid, to return to the said N. O. so much of the said materials as were not so used, as aforesaid, although oftentimes required by the said N. O. so to do, contrary to the form of the statute in such case made and provided. Whereby, &c.*

A conviction for this offence may be readily framed from this form.

(No. 19.)

Information for personating master, and giving a false character of a servant, on 22 Geo. 2, c. 56, s. 1. (c)

— } *Be it remembered, that on the day of , in the year of our to wit, } Lord , at, &c., N. O., of, &c., a credible witness in this behalf, personally cometh before us, J. P. and K. L., two of his majesty's justices of the peace in and for the said [county], and on his oath informeth us, that heretofore, to wit, on, &c., at, &c., one E. F. having offered himself to be hired as a servant into the service of the said N. O., C. D., of , in the said county, [labourer], did then and there falsely personate one G. H., the late [master] of the said E. F., and did then and there personally [or, in writing] give the said N. O. a false and counterfeited character of the said E. F., contrary to the form of the statute in such case made and provided. Whereby, &c. [as usual, to the end. See the 32 Geo. III. c. 56, s. 1, ante, 431. Penalty, 20*l.*; half to the informer and half to the poor of the parish. *Id.* s. 6.]*

Conviction.

The statute, s. 9, gives the formal parts of the conviction. See it, ante, 431.

(No. 20.)

Information for falsely asserting that a servant was in a particular service, &c., on 22 Geo. 2, c. 56, s. 2. (d)

Begin as in form No. 19.—State the offence thus: *That C. D., of, &c., on, &c., at, &c., did knowingly and wilfully pretend and falsely assert to the said N. O., in writing, that one E. F. had been hired and retained by him, the said C. D., as a [servant]; whereas, in truth and in fact, the said E. F. was never so hired or retained by the said C. D. as a [servant] [or, that one E. F. had been hired and retained by him, the said C. D., as a [servant], and had served him, the said C. D., for the space of years; whereas, in truth and in fact, the said E. F. had been retained by and*

(a) See the act, ante, 389. It is, it seems, imperative on the justices to allow this when properly requested, and on the parties entering into recognizances, &c., as directed, ante, p. 389.

(b) Ante, p. 388.

(c) Ante, p. 431. See Forms, Arch. Forms of Com. and Conv. 398. The statute gives the formal parts of the conviction.

(d) Ante, p. 431. The statute gives the formal parts of the conviction.

had served the said C. D. as such [servant], as aforesaid, for the space of [one year and two months] only; [or, that one E. F. had been hired and retained by the said C. D. in the situation and capacity of a [footman], and had served him, the said C. D., as a [footman], as aforesaid; whereas, in truth and in fact, the said E. F. never was hired or retained by the said C. D. in the situation or capacity of a [footman], or served him, the said C. D., as a [footman], but was hired, and retained by, and served the said C. D. in the capacity of a [labourer] only; contrary to the form of the statute in such case made and provided. Whereby, &c. [Conclude as usual.]

The statute prescribes the formal parts of the conviction; see, *ante*, 433.

(No. 21.)

Begin as in form No. 19. State the offence thus: That C. D., of, &c., on, &c., at, &c., did knowingly and wilfully pretend, and falsely did assert [in writing], that one E. F., formerly a [servant] of the said C. D., was discharged by the said C. D., and had left his service on, &c.; whereas, in truth and in fact, the said E. F. was discharged by, and had left the service of, the said C. D. on, &c. [or, that one E. F. had not been hired or employed in any previous service; whereas, in truth and in fact, the said C. D. then well knew that the said E. F. had previously been hired and employed in the service of one G. H.; and whereas, in truth and in fact, the said E. F. had previously been so hired and employed in the service of the said G. H.]; contrary to the form of the statute in such case made and provided. Whereby, &c.—[Conclude as usual.]

Information for falsely asserting that the servant was discharged, or that he had not been hired in a previous service, on 22 Geo. 3, c. 56, s. 3.

The statute gives the formal parts of the conviction; see, *ante*, 433.

(No. 22.)

Begin as in form No. 19. State the offence thus: That C. D., of, &c., on, &c., at, &c., did offer himself as a servant to the said N. O.; he, the said C. D., then and there asserting and pretending to the said N. O. that he had served in the service of one G. H.; whereas, in truth and in fact, he had never actually served in the service of the said G. H. [or, with a false, forged, and counterfeited certificate of character, purporting to be the certificate of one G. H., and stating that, &c.; whereas, in truth and in fact, the same was not the certificate of the said G. H.; and whereas, in truth and in fact, &c.]; contrary to the form of the statute in such case made and provided. Whereby, &c. [Conclude as usual.]

Information against a servant offering himself with a false certificate of character, on 22 Geo. 3, c. 56, s. 4.

The statute gives the formal parts of the conviction. See *ante*, p. 433.

(No. 23.)

We, I. K. and L. M. [name and describe the referees], the referees appointed to settle the matters in dispute between the parties within named [or, I. K., one of the referees so appointed, or, L. M., the other referee appointed having failed to attend, or, I., N. O., the justice, as the case may be], do hereby adjudge and determine that [here set forth the determination; to which the referee or referees, or justice, as the case may be, shall subscribe their names.]

Award to be written at foot or back of order of justices, certifying the reference, under 5 Geo. 4, c. 96, s. 23, 25. (a)

(No. 24.)

We, L. M. and N. O., parties to the within reference, do hereby agree to extend the same to the day of inclusive. Witness our hands, this day of

Indorsement extending time limited for making award, under 5 Geo. 4, c. 96, s. 21.

Witness,

L. M.
N. O.

(No. 25.)

I, L. M., do hereby acknowledge that the above award hath been fulfilled by N. O., who is hereby discharged of the same. Witness my hand, this day of

Acknowledgment of fulfilment of award, to be written at foot or on back thereof, under 5 Geo. 4, c. 96, s. 23.

L. M.

(a) *Ante*, p. 416. The stat. gives this and the next forms.

FORMS.

convicted before us [naming the justices], two of his majesty's justices of the peace for the county [or, riding, division, city, liberty, town, or place] of _____, of having [stating the offence], contrary to the act made in the sixth year of the reign of King George the Fourth, intituled, "*An Act*" [here set forth the title of this act]; and we, the said justices, do hereby order and adjudge the said A. B., for the said offence, to be committed to and confined in the common gaol for the said county [or, riding, division, city, liberty, town, or place] for the space of _____, [or, to be committed to the house of correction at _____, within the said county, or, riding, division, city, liberty, town, or place], there to be kept to hard labour for the space of _____. Given under our hands, the day and year above written.

(No. 33.)

Commitment on like act. (a)

Whereas C. D. hath been duly summoned to appear and give evidence before us [naming the justices who issued the summons], two of his majesty's justices of the peace for the county [or, riding, division, city, liberty, town, or place] of _____, on this _____ day of _____, at _____, being the time and place appointed for hearing and determining the complaint made by _____ [the informer or prosecutor], before us, against A. B., of having [stating the offence as laid in the information], contrary to the act made in the sixth year of the reign of King George the Fourth, intituled, "*An Act*" [here insert the title of this act]; and whereas the said C. D. hath not appeared before us at the time and place aforesaid, specified for that purpose, or offered any reasonable excuse for his [or, her] default [or, and whereas the said C. D., having appeared before us at the time and place aforesaid, specified for that purpose, hath not submitted to be examined as a witness, and give his [or, her] evidence before us, touching the matter of the said complaint, but hath refused so to do]; therefore we, the said justices, do hereby, in pursuance of the said statute, commit the said C. D. to the [describing the prison], there to remain without bail or mainprize, for his [or, her] contempt aforesaid, for three calendar months, or until he [or, she] shall submit himself [or, herself] to be examined, and give his [or, her] evidence before us, touching the matter of the said complaint, or shall otherwise be discharged by due course of law. And you, the _____ [constable, or other peace officer or officers, to whom the warrant is directed], are hereby authorized and required to take into your custody the body of the said C. D., and him [or, her] safely to convey to the said prison, and him [or, her] there to deliver to the gaoler or keeper thereof, who is hereby authorized and required to receive into his custody the body of the said C. D., and him [or, her] safely to detain and keep, pursuant to this commitment. Given under our hands, this _____ day of _____, in the year of our Lord _____.

[This commitment to be directed to the proper peace-officer, and the gaoler or keeper of the prison.]

Sessions of the Peace. (b)

Session of the peace, what.

Four kinds.

THE term "Session of the Peace" is used to designate a sitting of justices for the execution of those purposes which are confided to them by their commission, and by several acts of Parliament. Of these sessions there are four kinds—petit, special, quarter, and general sessions: the first of which is a mere private meeting of justices, on their own motion; and the second, an assembly summoned for a particular purpose,—as, licensing alehouses, or appointing the overseers of a parish, or the like.

Under this head, we are to treat only of the latter, which are similar in every respect, except as to the time of holding. Petit and special sessions will be noticed in another place, *post*, Sessions, Petit & Special, p. 484.

A general sessions of the peace is a court of record, holden before two or

General and quarter sessions.

(a) See *ante*, p. 410, &c. The act Mr. Talfourd's late and much-improved edition of *Dickenson's Sessions*; also,

(b) As to such sessions in general, see 1 *Chit. C. L.* 133 to 141.

more justices, whereof one is of the *quorum*, for execution of the authority given them by the commission of the peace, and certain statutes and acts of Parliament. *Dalt. c. 185; Cro. Cir. C. 13.* WHAT ARE, &c.

It is a meeting of justices for the execution of their general authority. *Lamb. 379.*

The sessions cannot be held without the presence of two justices. 1 *Bla. Com. 354, n.*

The king may grant a commission of the peace for a county, and under such commission the jurisdiction of the justices named in it will extend over the whole of such county; or he may grant it for any particular district or portion of a county, exclusive of the jurisdiction of the justices of the county at large; or he may by charter give the power of acting as justices, to certain officers in towns corporate, cities, and other places. In the latter cases, however, the justices of the county at large in which such district, town corporate, city, or other place, shall happen to be situate, can only be prohibited from interfering by special words in the commission or charter of the inferior jurisdiction, called technically "a *non intromittant* clause." 4 *T. R. 456; et vide title Justices*, Vol. III. p. 461 to 463.

According to Mr. *Lambard*, general and quarter sessions are synonymous terms; for he makes no distinction between them. This, however, is erroneous: for it seems that quarter sessions are a species only of the general sessions, and that such sessions only are properly called *general quarter sessions*, which are holden in the four quarters of the year, in pursuance of the 2 Hen. V.; and that any other sessions, holden at any other time for the general execution of the justices' authority, which by the said statute they are authorized to hold oftener than at the times therein specified, if need be, may properly be called *general sessions*, and those holden on a special occasion, for the execution of some particular branch of their authority, may properly be called *special sessions*. 2 *Haw. c. 8, s. 47.* Difference between general quarter and special sessions.

And herein,

I. *The Time and Place of Holding the Sessions*, p. 447 to 454.

II. *The Mode of Convening, &c. and who must attend at Sessions*, p. 454 to 457.

III. *The Mode of Proceeding at Sessions*, p. 457 to 467.

In General, p. 457 to 461.—*In Trials for Offences*, p. 461 to 466.—*In Trials of Traverses*, p. 467.—*In Hearing Appeals*—see *Appeals*, Vol. I.

IV. *The Jurisdiction, Power, and Duties of the Sessions*, p. 467.

In what Matters, p. 467 to 478.—*Their Judgments*, p. 478 to 480.—*Special Cases*, p. 480.—*Costs*—see *Costs*, Vol. I.

V. *The Adjournment of Fees and Estreats, &c.* p. 482.

VI. *Forms*, p. 483.

I. Time and Place of Holding the Sessions.

By the 36 Edw. III. c. 12, it is ordered, that the justices shall hold their sessions four times in the year, viz. one session within the *Utas* of the Epiphany, the second within the second week of Midlent, the third betwixt the feasts of Pentecost and of St. John Baptist, the fourth within eight days of St. Michael.

But by the 12 Rich. II. c. 10, the justices shall keep their sessions in every quarter of the year at least; and by three days, if need be: on pain of being punished according to the discretion of the king's council, at the suit of every man that will complain.

This statute did not specify the periods; but in Henry the Fifth's reign an act was passed for that purpose, 2 Hen. V. s. 1, c. 4, which directs, "that the justices of the peace in every shire named of the *quorum* be resiant within the same shire, except lords named in the commission of the peace; and also

At what time the sessions shall be kept.

2 Hen. 5, st. 1, c. 4.

TIME AND
PLACE OF
HOLDING.

except justices of the one bench and of the other, the chief baron of the Exchequer, serjeants at the law, and the king's attorney for the time that the same justices, chief baron, serjeants at the law, and the king's attorney, be intending, and occupied in the king's courts, or otherwise in some other place occupied in the king's service; and make their sessions four times by the year,—that is to say, in the first week after the feast of St. Michael, and in the first week after the Epiphany, and in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr, and more often, if need be; and that the same justices hold their sessions throughout the realm of England, in the same weeks every year from henceforth."

The strict regular exposition of this statute of 2 Hen. V. is, that if the feast-day fall upon a Sunday, the sessions shall be held in the week following, and not the same week. 2 Hale, 49.

54 Geo. 3, c. 84.

The holding of the Michaelmas quarter sessions was afterwards altered and regulated by the 54 Geo. III. c. 84, which, after reciting, "whereas the time now appointed for holding the quarter sessions for the Michaelmas quarter might be altered, so as to render the attendance at the same more generally convenient than it is at present," enacts, "that from and after the passing of this act, the quarter sessions for the Michaelmas quarter shall in every year be holden, for every county, riding, division, city, borough, and place, within England and Wales, and for Berwick-upon-Tweed, in the first week after the 11th day of October, instead of at the time now appointed for holding the same; and that all acts, matters, and things done, performed, and transacted at the time appointed by this act, for holding the said Michaelmas quarter sessions, shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at the time heretofore appointed for the holding of such sessions, notwithstanding any former act or acts to the contrary."

Sect. 2. "That nothing in this act shall extend, or be construed to extend, so as to alter or vary the time at which the sessions for London or Middlesex are now holden."

1 Wil. 4, c. 70.

These enactments still remain unrepealed, but the times of holding the general quarter sessions are now pointed out by the recent act of 1 Wil. IV. c. 70, s. 35, which, after reciting, "whereas the general quarter sessions of the peace are now directed to be held in each year in the first week after the eleventh day of October, in the first week after the Epiphany, in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr; and whereas it will be expedient that the times of holding the general quarter sessions of the peace should be altered in part:" enacts, "that in the year of our Lord 1831, and afterwards, the justices of the peace in every county, riding, or division, for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh day of October, in the first week after the twenty-eighth day of December, in the first week after the thirty-first day of March, and in the first week after the twenty-fourth day of June; and that all acts, matters, and things done, performed, and transacted at the times appointed by this act for the holding of the general quarter sessions of the peace shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this act."

Are variously
held in different
counties.

The quarter sessions are in fact variously holden in several counties, some at one day, and some at another; yet it hath been ruled, that these are each of them good quarter sessions within the several acts that relate to quarter sessions; for those acts, especially the 2 Hen. V., are only directory, and in the affirmative; and therefore, though the sessions are held on another day, according to the general direction of the 12 Rich. II., yet they are quarter sessions. 2 Hale, 50.

And, on the same principle, it has been recently decided, that although the 54 Geo. III. c. 84, provides that the quarter sessions for the Michaelmas quarter shall be holden in the first week after the 11th of October, instead of the time then appointed for holding the same, this act also is only directory, and the Michaelmas quarter sessions may be lawfully holden in another week than that so specified by the statute. *R. v. Justices of Leicester*, 7 B. & C. 6.

The sessions in London and Middlesex are, it may be seen, excluded from the operation of the 54 Geo. III. c. 84; and the regulations under which they are held are distinct in many respects from those which govern the other parts of the kingdom.

By the 14 Hen. VI. c. 4, it is enacted, that, in Middlesex, the justices shall keep their sessions twice in the year at least, and more often (if need be) for any riot or forcible entry.

And, in consequence of the large population of the districts of London and Middlesex, their sessions are in fact holden eight times of the year; four as quarter sessions, not exactly at the times directed by the statutes, but as near to them as convenience will admit, and the other four as original general sessions, in the intervening periods; and both have equal jurisdiction to try and try indictments, except in cases where, by statute, jurisdiction is given exclusively to the quarter sessions. *Burly v. Watson*, 2 Bla. Rep. 1051.

In Middlesex, the justices have a commission of oyer and terminer, under which they act at the time when their sessions are holden. The sessions for the liberty of Westminster are only holden four times a year, and under a different commission of the peace from those for Middlesex; yet offences committed within the liberty may be prosecuted and determined at the county sessions; and if a party be bound by recognizance to prefer a bill of indictment, and prosecute for an offence, at the next session of the peace for Westminster, and do in fact prefer a bill at the next sessions for Middlesex, it is holden to be in compliance with the terms of his recognizance. *Dick. Sess. by Tulf. p. 26.*

It sometimes happeneth that, on the day appointed for holding the sessions, a sufficient number of justices do not appear. And a question arises, what is to be done in such a case? It seemeth to be generally understood that the sessions for that quarter of the year are irrecoverably lost. But the matter seemeth not altogether so desperate. For there are obvious remedies: by the first of which it may be possible to recover the sessions in the very identical week next after any of the respective holydays above mentioned; by the latter, at all events, a session may be held. As to the former case, there cannot be time, indeed, within that week, to summon a sessions *de novo*; but neither is that absolutely necessary. A session may be holden without a previous summons; and the justices there may adjourn to another day, and issue their precept to the sheriff against the day of adjournment. To which purpose, Mr. Lambard (380) saith thus: "Albeit that the sessions be commonly, and most orderly, summoned by a precept in writing; yet it is not altogether of necessity (for the making of a lawful sessions) to have it so. For if competent justices of the peace do get men to serve, and thereupon do hold a sessions, without any precept before directed, all presentments made before them by twelve lawful men shall be of force in law; but no man shall lose any thing for his default of appearance there, because no man had notice of their sitting." Thus far as to saving the original sessions' week; for how many adjournments soever shall be holden afterwards in that quarter of the year, all shall refer to the first commencement of the sessions; and thereby some processes or recognizances may be saved which may possibly run for appearance at the sessions to be holden in the week next after any of the holydays above mentioned. (a)

(a) In consequence of the unusual pressure of business in the year 1815, the magistrates of Stafford submitted the following queries to the law officers of the crown:—"Whether, either by the commission of the peace or by statute, the justices are empowered to hold a general sessions or an adjournment of the quarter sessions for the trial of prisoners, at such times and places as they may think proper, and for that purpose to summon jurors and compel the attendance of prosecutors and witnesses?"

VOL. V.

and, if empowered so to do, whether it would be advisable to hold such sessions?" From the answer given to this, it appears that, where the quarterly meetings of justices are not sufficient for the despatch of business, they may adjourn the sessions to some intermediate day, instead of holding an extra-original session. This course, according to the opinion of the law officers alluded to, is unquestionably legal. See the opinion, 5 Burn's J. 24th ed. tit. Sessions.

2 G

TIME OF HOLDING.

Sessions for London, Westminster, and Middlesex.

When a sufficient number of justices do not appear.

Precept for.

TIME AND
PLACE OF
HOLDING.

But the general (and better) form of such instruments is otherwise. And certainly, though a session shall not be holden within a week after such feast-day, it doth not follow, that therefore it cannot be holden in any of the twelve weeks after. Undoubtedly, any two justices, one whereof is of the *quorum*, by the words of the commission of the peace, may issue their precept to the sheriff, to summon a session, for the general execution of their authority. And so far is the statute from saying, that if the sessions be not holden in the week next after such respective feasts as aforesaid, such session shall be void, the very same statute directs, that the justices shall hold their sessions *more often if need be*; and greater need cannot be than when the former meeting of the justices hath been frustrated. 2 *Haw. c. 8, s. 41.*

From the case of the *King v. the Justices of London, 15 East, R. 632*, it appears that, if sufficient justices do not appear on the day appointed for holding sessions, the magistrates may, indeed, afterwards hold a general session for general purposes; but it is not so certain that such session would be good as a quarter session, in respect of such matters as are expressly made cognizable at a quarter session only. The cases which have been supposed to prove that such subsequent session would not be good as a quarter session, do not establish that proposition, but merely prove that, where one original session has been actually holden, a second within the quarter cannot be also good as a quarter session. *R. v. Polstead, 2 Strange, 1263; R. v. West, Torrington, Burr. S. C. 293.*

The places where
county sessions
to be holden.

The Places where County Sessions are to be holden—The justices by whom the precept to convene a quarter session is issued, may name any place within the county, division, riding, or liberty for which it is summoned, as that where it is to be holden, according to their discretion; and then all officers and suitors of the court will be bound to give their attendance. *Dalt. 185.*

1 & 2 Geo. 4,
c. 63.

And their jurisdiction was further extended by the 1 & 2 Geo. IV. c. 63, which, after reciting the 28 Geo. III. c. 49, *Justices*, Vol. III., p. 460, "and whereas doubts have been entertained, whether justices of the peace for counties at large are thereby empowered to act for such counties at large, within any city, town, or other precinct having exclusive jurisdiction, but not being a county of itself," enacts "that it shall and may be lawful for any justice or justices of the peace acting for any county at large, or for any riding or division of a county in which there are several and distinct commissions of the peace, to act as a justice or justices for such county at large, riding, or division, in sessions or otherwise, at any place within any city, town, or other precinct, having exclusive jurisdiction, but not being a county of itself, and situate within, surrounded by, or adjoining to any such county at large, riding, or division; and that all and every such act and acts, matters and things which shall be done, or which may heretofore have been done, by such justice or justices of the peace for the said county at large, riding, or division, within such city, town, or other precinct, shall be as valid and effectual in the law as if the same had been done within the said county, riding, or division, to all intents and purposes whatsoever; provided always, that nothing in this act contained shall extend to give power to the justices of the peace for any county at large, riding, or division, not being justices for such city, town, or other precinct, or any constable or other officer acting under them, to act or intermeddle in any matters or things arising within any such city, town, or precinct, in any manner whatsoever."

Justices acting
for any county at
large, &c. may
act as such in
places having
exclusive juris-
diction within or
adjoining such
county.

9 Geo. 4, c. 43.

This subject has still more recently engaged the attention of the legislature, and on the 15th of July, 1828, "An Act for the better Regulation of Divisions in the several Counties of England and Wales," was passed, by which, after reciting, "whereas by divers acts now in force it is enacted, that certain matters and things, in the same respectively mentioned, shall be transacted and determined within the divisions or limits within which the same shall arise, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one, two, or more justices of the peace dwelling within or near to, or usually acting within, such divisions or limits respectively: and whereas the boundaries of such divisions or limits are in some instances uncertain, and in

many have become inconvenient to the inhabitants within the same, from the change or increase of trade or population, or from other causes: and whereas doubts have arisen as to the authority by which such divisions or limits may from time to time be constituted, defined, or altered; and it is expedient that such doubts should be removed, and due provision made for the constituting, defining, and regulating from time to time such divisions or limits, as the convenience of the inhabitants within the same may require:" it is enacted, "that at any time or times after the Michaelmas quarter sessions next following the passing of this act, it shall be lawful for any two or more justices of the peace for any county, riding, or division in England or Wales, having a separate commission of the peace, to transmit to the clerk of the peace a statement in writing, signed by such justices, of the parishes, tithings, townships, and places within the same, which, in the opinion of such justices, would form together a convenient and a proper division within and for which special sessions should thenceforward be held; or of any parishes, tithings, townships, or places, which, in the opinion of such justices, ought to be annexed, for the same purposes, to any other division in the said county than those or that of which at the time of making such statement they form part; and that every such statement shall, among other things, set forth within what existing divisions or division, limits or limit, the several parishes, sittings, townships, and places enumerated in the same, are situated or deemed to be; and also whether one or more, and what existing divisions or limits will be altered by such proposed new divisions, or by the change of any place or places from one division to another; and also the names of such justices of the peace as at the date of such statement are usually resident or acting as such within the boundaries of such proposed new division."

Sec. 2. "That at the quarter sessions next following the receipt of every such statement, setting forth such particulars as are above enumerated, and not otherwise, the clerk of the peace shall and he is hereby required to lay the same before such justices of the peace in such sessions assembled; and the justices of the peace for such county, riding, or division, having such separate commission of the peace, shall and they are hereby required (except in the cases hereinafter provided for) to proceed, at the quarter sessions next following the laying of such statement before them as aforesaid, to the consideration thereof, and at their discretion to adopt the same wholly or in part, or to reject the same altogether, or to adjourn their determination thereupon to the next or any succeeding quarter sessions."

Sec. 3. "That immediately after the quarter sessions at which such statement shall have been first laid before the justices of the peace, the clerk of the peace shall cause to be published a copy of such statement in three successive numbers of one or more weekly newspapers usually published or circulated within the same county, riding, or division, and in which the advertisements of county business are usually inserted; and at the foot of such copy shall also cause notice to be given that such statement has been laid before such justices in pursuance of the directions of this act, and that the same will be taken into consideration by the court at the then next ensuing quarter sessions."

Sec. 4. "That when and so often as the justices of the peace of any such county, riding, or division, having a separate commission of the peace, shall adopt wholly or in part any such statement so laid before them, and shall determine to change any parish, tithing, township, or place, from one division to another, or to constitute any new division, within which special sessions shall thenceforward be holden, the said justices of the peace shall thereupon make an order for such alteration, or for the constituting and defining such new division, and in such last-mentioned order shall particularly enumerate the several parishes, tithings, townships, and places to be comprised within such new division, and shall also specify the division or divisions within which respectively any parishes, tithings, townships, and places, disannexed by such order from any former division, and not forming part of such new division, shall thenceforward be taken to be, and also shall affix to such new division the name of some principal and convenient parish, township, or place within the same, and also shall, in either of such orders, as the case may be, particu-

PLACE OF
HOLDING.
9 Geo. 4, c. 43.

Justices to forward to the clerk of the peace a statement of the townships, places, &c. that would form a proper division for which special sessions should be held.

Statement to be laid before the justices at the next quarter sessions, who are to adopt or reject the same.

Clerk of the peace to advertise statement and other particulars in the newspapers.

If justices approve, an order to be made for constituting a new division, and the clerk of the peace to publish the same.

PLACE OF

HOLDING.

9 Geo. 4, c. 43.

No new division to be constituted unless five justices at least shall be proved to be resident therein.

New divisions to be deemed lawful divisions for holding special or petty sessions, or other meetings of justices.

Justices at sessions to cause inquiry into the extent of divisions, and alter the same, and affix names thereto.

Clerk of the peace to publish a copy of such order.

larly set down the day from which such order shall take effect; and the clerk of the peace for such county, riding, or division, shall forthwith publish a copy of such order in three successive numbers of one or more such weekly newspapers as aforesaid, and shall transmit a copy of such order to every high constable within the limits of such new or altered division or divisions."

Sect. 5. "That nothing in this act shall be taken to authorize, and that it shall not be lawful for any justices in any court of quarter sessions to make any order constituting such new division, unless upon due proof before them made in open court upon oath, that for two years next before the making of such proof there have been, and at the time of making the same there are, at the least, five justices of the peace residing in or usually acting within the boundary line proposed to be the limits of any such new division."

Sect. 6. "That from and after the day so specified in such order, for the term of twenty-one years, and until further order of sessions after the expiration of that time, and subject to no alteration or revision during such term, except as hereinafter provided, all matters and things which by law are now or hereafter may be required to be, or which now are, usually transacted or determined within the division within which the same shall have arisen, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one, two, or more justices of the peace dwelling or usually acting within the same, shall be transacted and determined, so far as the same matters and things arise within or concern the inhabitants of such new or altered division, or any of them, or the persons exercising their trade or calling therein, within the boundaries of such new or altered division; and such new or altered division shall thenceforward be, and be reputed and taken to be, for all purposes, and in the construction of all statutes now in force or hereafter to be made, and containing no special provision to the contrary, a lawful division for the holding of special sessions; and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns, coffee-houses, and victualling-houses, and other persons, shall and they are hereby thenceforward required to give their attendance to and upon such justices of the peace at any time assembled in such special sessions, within the same division, as fully and effectually as by law they had been bound to do within any division reputed or taken before the passing of this act to be a lawful and accustomed division of justices for the purposes aforesaid."

Sect. 7. "That, at the quarter sessions next after the laying of any such statement before the justices in such sessions assembled, it shall and may be lawful for such justices, if they shall deem it expedient and proper, not to proceed to the single consideration of such statement, but, instead thereof, to cause to be made an inquiry and examination into the boundary lines, extent, and other local circumstances, of all the existing and accustomed divisions for the holding of special sessions within the commission of such justices; and at such or any succeeding quarter sessions, to which the conclusion of such inquiry and examination may, from time to time, be adjourned, by order of sessions, to regulate, alter, new-model, and subdivide, all or any of such divisions, in such manner as shall appear to them proper and convenient, particularly specifying in such order the names of all such divisions, whether newly constituted, altered, or unaltered, the several parishes, tithings, townships, and places, to be comprised in each, and affixing or continuing to each the name of some principal and convenient parish, township, or place within the same."

Sect. 8. "That the clerk of the peace for any county, riding, or division, in which such order shall have been made as last aforesaid, shall forthwith publish a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also forthwith transmit, by the post, a copy of the same to the churchwardens and overseers of the poor of each parish within the said county, riding, or division, to be by them affixed on the principal door of the church of such parish; and at the foot of every such copy so published or transmitted shall add a notice specifying at what time such order will be enrolled as hereinafter provided, and at what time and in what manner any person or persons, or body corporate, aggrieved by such order, may petition against the same, or any part thereof, as hereinafter provided."

L]

*Time and Place of Holding.***PLACE OF
HOLDING.**

9 Geo. 4, c. 43.
Order to specify
time when it
shall be enrolled.
Parties allowed to
petition against
such order.

Sect. 9. "That in every such order, some time, not earlier than the fourth quarter sessions next after the making thereof, shall be provisionally specified, on which the same shall be enrolled as hereinafter provided, subject to such alteration as may thereafter be made either in the particulars of the said order, or in the time of its enrolment; and that at any court of quarter sessions preceding such time, it shall and may be lawful for any one or more person or persons, or body corporate, jointly or severally, to present a petition in writing to such court, against all or any part of such order, and to produce witnesses in support of such petition; and the justices at such court assembled shall and they are hereby required to hear and determine, in a summary way, the merits of such petition, and to amend such order so far as may, upon such hearing, appear proper and convenient: provided always, that no such petition shall be received or examined into, unless after due proof that a notice in writing, specifying the grounds thereof, which upon the hearing shall alone be inquired into, hath been served, ten clear days before the commencement of such sessions, upon one of the overseers of the poor, or the tithingman or constable, or two substantial housekeepers of the parish, tithing, township, or place respectively, as the case may be, wherein such petitioner or petitioners shall be resident at the time of presenting such petition, and also lodged, twenty clear days before such commencement, at the office of the clerk of the peace, who shall and he is hereby required forthwith to transmit a copy thereof to each of the justices usually acting within or for the district or places or place named in such notice."

Sect. 10. "That so soon as all such petitions against such order shall have been determined, and such amendments made therein as shall have appeared necessary or proper, the justices at such quarter sessions shall cause to be inserted therein some day not earlier than one month after such sessions from which the same shall take effect, and shall cause the same order to be enrolled, and the same shall remain an order of sessions, controlling any order or orders of sessions heretofore made for the separate constitution of any new divisions, or the partial alteration of any accustomed divisions, under the former provisions of this act, and not subject itself to revocation or alteration of any kind for the space of ten years thence next ensuing; and during such ten years no such statement shall be received or proceedings had thereon as above mentioned, but during all that time, and until further order of sessions after the expiration of that time, the several divisions, as limited, modelled, or constituted in and by such order, shall be and be taken to be, for all the purposes in this act mentioned, the lawful divisions of such county, riding, or division, having such separate commission of the peace, for the meetings of justices in special sessions, under any statute now in force, or hereafter to be made, and containing no special provision to the contrary: and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns, coffee-houses, and victualling-houses, and other persons, shall and they are hereby required thenceforward, during the time last above limited, to give their attendance to and upon the justices of the peace at any time assembled in such special sessions, within the same divisions respectively, as fully and effectually as by law they have been bound to do within any division reputed and taken before the passing of this act to be a lawful and accustomed division for the meetings of justices for any of the purposes aforesaid."

Order to be enrolled as soon as petitions against the same have been determined, and shall not be subject to alteration for ten years.

Sect. 11. "That immediately after the enrolment of such order, the clerk of the peace shall and he is hereby required to cause to be published a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also transmit one copy thereof to each justice of the peace dwelling within or usually acting within and for such county, riding, or division, having such separate commission of the peace."

Clerk of peace to publish copy of enrolment.

Sect. 12. "That no order to be made, nor any proceeding to be had or taken, in pursuance of this act, shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process whatever, into any of his majesty's courts of record at Westminster; any law or statute to the contrary notwithstanding."

Proceedings not to be quashed for want of form.

Sect. 13. "That nothing in this act contained shall extend or be construed

Not to extend to Middlesex, &c.

MODE OF CON-
VENING, &c.

or taken to extend to the county of Middlesex in England, or to Scotland or Ireland."

II. The Mode of Convening, &c., and who must attend at Sessions.

By whom convened.

By whom Convened—A general session may be convened by any two justices within the jurisdiction, one being of the *quorum*, or by the *custos rotulorum*, and any one justice, but not by the *custos rotulorum* alone, or by one justice alone. *Lamb. 375.*

How convened.

How Convened—The mode of convening such session is usually by precept, directed under their teste to the sheriff, for the summons of the sessions, thereby commanding him to return a grand jury before them, or their fellow-justices, at a certain day and place, and to give notice to all stewards, constables, and bailiffs of liberties, to be present, and do their duties at such day and place, and to proclaim, in proper places, throughout his bailiwick, that such sessions will be holden at such day and place, and to attend there himself to do his duty. 2 *Haw. c. 8, s. 42.*

Such precept shall bear teste, or be dated, fifteen days before the return, and ought forthwith to be delivered to the sheriff, to the end he may have sufficient time to proclaim the sessions, to summon and return the several juries, and to warn all officers and others that have business there, to attend. *Nels. Introduct. 35.*

And it is said that such a precept, by any two justices, cannot be superseded by any of their fellows, but only by writ out of chancery. 2 *Haw. c. 8, s. 43.*

But it is not sufficient that the precept run under the name of the *custos rotulorum* alone; for he hath no more authority in this behalf than any one of his fellow-justices; and the words of the commission are, that the sheriff shall cause a jury to appear at such days and places as the said justices, or such two or more of them, as aforesaid, shall appoint. *Lamb. 382, supra.*

Effect of holding under irregular precept.

Without such precept to the sheriff, no one is bound to attend a general session; but if the session be holden after an irregular precept, and the parties necessary to the despatch of business attend, and the business be regularly transacted, the proceedings will be valid. *Lamb. 375; Ld. Raym. 1238; ante, 449.*

Superseding of a precept.

A precept for a general session, issued by two justices, cannot be superseded by other justices, but only by a *supersedeas* issued out of chancery. *Lamb. 378, l. 4, c. 2.*

Sessions at two places.

Mr. *Lambard* puts a case from Mr. *Marrow*, That if two or more justices appoint the sessions to be holden in one town, and so many more appoint a sessions in another town the same day, and holds they may be so held, and that the presentments in both are good; but that appearance at one is a discharge of service at the other. But it may be well questioned whether they are not both void; for they make two courts of that which ought to be entire and but one; for it doth not appear that the justices are required or enabled to hold more than one sessions at a time, and so, their authority being equal, and seeing no preference can be made by the priority of time, or nature of the service, they may be taken to be both void. However, the justices, by whose forwardness such division happens, or on whom such miscarriage is chargeable, are punishable for the same by information and fine, or being put out of the commission, as the case shall require. *Dalt. c. 185, p. 457.*

Proceedings of justices should be decorous.

Indeed, it is of infinite importance that the proceedings of magistrates should not only be substantially good, but also that they should be decorous. Wherefore, where two sets of magistrates have concurrent jurisdictions, and one appoints a meeting to grant ale licenses, their jurisdiction attaches so as to exclude the others appointing a subsequent meeting; but they may all meet together on the first day. But if, after such appointment, the other set of magistrates meet on a subsequent day, and grant other licenses, their proceeding is illegal, and the subject of an indictment. *R. v. T. Sainsbury, Esq., and another, 4 T. R. 451; see Vol. I. p. 484.*

Who must Attend at Sessions—In this place it will not be necessary to do more than mention the names of the persons who constitute these sessions of the peace; information as to their appointment, offices, duty, liability, &c. may be found, under their respective titles, in this work.

MODE OF CON-
VENING, &c.

Who must attend
at sessions.

They are as follows:—

1. *The Justices of the Peace*: these, without doubt, are compellable to appear at the sessions; for, without their appearance, the sessions cannot be holden. *Dalt. c. 185, p. 457.*

Justices.

But a justice ought not to join in an order at sessions wherein himself is concerned, nor ought his name to be in the caption. An order was quashed for that reason. *2 Salk. 607.*

Justices being in-
terested.

2. *The Custos Rotulorum*, who hath custody of the rolls of sessions, ought (by the commission) to be there by himself, or by his deputy, who is the clerk of the peace. *Dalt. c. 185, p. 458.*

Custos rotu-
lorum.

3. *The Sheriff*, also, by virtue of the commission, by himself or his deputy; to receive the fines, or return jurors, to execute process, and what else to his office doth appertain. *Id.*

Sheriff.

4. *All Coroners.* *Id.*

Coroners.

5. *The Constables of Hundreds*, (that is, high constables,) and all other officers to whom any warrant hath been directed, in order to make return thereof. *Id.*

High constables.

6. *All Bailiffs of Hundreds and Liberties*, in respect they are bound to give an account of all sessions' process. *Id.*

Bailiffs.

7. *The Gaoler*; to bring thither his prisoners, and to receive such as may be committed. *Id.*

Gaoler.

8. *The Keeper of the House of Correction*, to give in a calendar and account of persons in his custody. *Id.*

Keeper of the
house of correc-
tion.

9. All persons returned by the sheriff, by virtue of the aforesaid precept. And the jurors, not appearing according to their summons, are punishable by loss of issues, which usually make part of the estreats of sessions. *Id.*

Persons returned
by the sheriff.

10. All persons returned by *Recognizance* to answer, or to prosecute and give evidence. *Dalt. c. 185, p. 458.*

or by recogni-
zance.

Suitors of the Court, is a term which may be supposed to imply only those who have some voluntary suit to prosecute; but it may be used as descriptive of all persons who have any duty to perform, or any necessary business to execute, voluntary or official, before the court.

Suitors of the
court.

Witnesses—We have already seen, that when a charge is made before a magistrate, he may bind over the party making the charge to prosecute and give evidence, and also all who can give material evidence; and, on their obstinate refusal, may commit them. And as to the proper course to be pursued in different cases of this nature, see title *Examination*, Vol. II.

Witnesses.

It may be now necessary to notice the process by which witnesses are compelled to attend.

When any offender is brought before a justice by warrant, or otherwise, for felony, or breach of the peace, beside the informant, and any witnesses who may happen to be voluntarily present (and whom, it has already been seen, it is the duty of the examining justice to bind by recognizance to appear at the session), there may be others known to him, whose testimony may be necessary, or at least useful, on the occasion. These the justice may issue his warrant to bring before him, to be examined touching the matter in question; (a) but it is more common, in the first instance, especially if they be respectable persons, to make it only a summons.

If the evidence be found by the justice on examination to be material, he must then be bound by recognizance, like the rest, to attend at the session of the peace, and give it to the court and juries there, in like form, varied only according to the circumstances of the offence; and if he refuse to enter into such recognizance, the justice may commit him to gaol; *2 Hale, 282; 1 Hale, 586; Bennet et Usor v. Watson, 3 M. & S. 1.*; wherein, if he obstinately continue

(a) See Form, post.

MODE OF CON-
VENING, &c.

till the session, he may be brought up to the court by writ of *habeas corpus ad testificandum*. 31 Car. II. c. 2; 44 Geo. III. c. 102. See *Habeas Corpus*, Vol. II.

Lord *Preston*, being committed by the court of quarter session for contempt, in refusing to be sworn to give evidence to the grand jury, on an indictment of high treason, he was brought, by *habeas corpus*, into the Court of King's Bench; and *Holt*, C. J., said, it was a great contempt, and that, had he been there, he would have fined him, and committed him till he paid the fine; but being otherwise, he was bailed. *Salk*. 278.

Subpoena.

The process, to bring before the grand jury or court such witnesses as have not been bound by recognizance to appear, whether on the part of the prosecution, or for the defendant, is by *subpoena*; which, whatever might have been the law in former times, 2 *Haw. c.* 46, is now to be obtained in all cases whatsoever; 2 Wil. III. c. 3; 1 Anne, c. 9; 4 *Bla. Com.* 359; 2 *Haw. c.* 46; for the assizes, from the Crown Office; for the sessions, from the clerk of the peace, or from the Crown Office. And the service of a *subpoena*, issued out of any court of competent jurisdiction, is declared to be equally good with service in the particular county where the party is required to attend; 45 Geo. III. c. 92. And disobedience to it is punishable by the Court of King's Bench. *Talf. Dick. Sess.* 77.

Writ of habeas
corpus ad testi-
ficandum.

The writ of *habeas corpus ad testificandum*, for a witness in prison, can only be obtained by an affidavit made by the party applying, stating the confinement of the person whose evidence is wanted; that he is a material witness; that the trial cannot safely be proceeded in without his presence; and that it is about to take place at a certain time and place, with such other circumstances (if required) as may show the necessity for the application. It may be granted by any one of the judges of the superior courts in England and Ireland (44 Geo. III. c. 102). It is to be served on the person in whose custody the party is detained. See *ante*, *Evidence*, Vol. II. p. 82, 83, 84.

Protection, &c.
of court to
sutors, &c.

Protection of Court to Sutors, &c.—Before concluding this division, it may be necessary to inquire how far the protection of the court is extended to sutors of every description; and what privileges or immunities it has been thought expedient to bestow, as necessary to the advancement and interests of public justice.

Freedom of ac-
cess to the ses-
sions. (a)

All persons may freely attend at the sessions for the advancement of public justice, and for the service of the king. And to this end they are (as it were) invited thither by a certain freedom of access, and by protection from common arrest: a thing that is incident to each court of record, and without which justice would be greatly hindered. So that, if a man come voluntarily to the sessions, either to prefer a bill of indictment, or to give information against another, or to tender fine upon an indictment touching himself; or do come compelled to make appearance for saving his recognizance, and be arrested by the sheriff, upon common and original process, in his coming thither, or during his tarrying there, it seemeth (Mr. *Lambard* says) that (upon examination of the matter under his oath) he shall be discharged thereof by the privilege of this court, even as it is used in the higher courts at Westminster. *Lamb.* 402.

But Mr. *Hawkins* puts it more doubtfully, saying, "it is questioned whether the sessions, as also all courts of record, may not discharge any person arrested during his journeying to or from such courts, or necessary attendance there, by process from any other court: however, it seems to be agreed that any such court may discharge a person who shall be so arrested in the face of it." 2 *Haw. c.* 1, s. 19.

But now no doubt can be entertained on the subject; and this privilege is so incident to the duty of attendance on judicial proceedings, that it has been construed to extend to the case of a party to a cause attending an arbitrator, to be examined under an order of *nisi prius* made a rule of court. *Spence v. Stuart*, Bart., 3 *East*, 89.

(a) As to the right of a third person to be present, to assist as the adviser of the party, see *Justices*, Vol. III. p. 471.

On general principles, this privilege from arrest, *cundo, morando, et redeundo*, applies to the case of every person in necessary attendance on a court of justice; and, for this purpose, the sitting of commissioners of bankrupt, or of an arbitrator, is so deemed. 8 T. R. 534.

MODE OF PROCEEDING AT, IN GENERAL.

And it seemeth to have been agreed in the argument upon Col. Pitt's case, 2 Stra. 987 (which was an arrest in his return from Parliament), that not only in the high court of Parliament, but also in the inferior courts, the parties to the suit, and also the witnesses, are protected in going, continuing, and returning. This returning hath never been very nicely scanned, so as to require a man to go the direct road. Neither is the law so strict in point of time as to require a person to set out immediately after the trial is over; and for that was cited the case of *Hatch v. Blisset*, T. 13 Anne. She had a trial at Winchester assizes, which was over on Friday at four in the afternoon; she stayed there till after dinner on Saturday; and in the evening at seven was arrested going home to Portsmouth, which is twenty miles: and the court held, that she ought to be discharged, her protection not being expired, and a little deviation of loitering would not alter it.

Privilege from arrest, &c.

But where a man is arrested by process out of the courts at Westminster, it doth not seem that the justices of the peace (unless the arrest be made in the sessions) have power to discharge him; but, on application to the court from which the process issued, such court probably may discharge him, and punish the person who made the arrest.

Attorneys—By the 22 Geo. II. c. 46, s. 12, no person shall act as a solicitor, attorney, or agent, or sue out any process at any general or quarter sessions, either with respect to matters of a criminal or a civil nature, unless he be admitted and enrolled according to law on pain of 50*l.* to him who shall sue in twelve months, with treble costs; and if any attorney shall permit any person to make use of his name in the said court, he shall in like manner forfeit 50*l.*

Who shall act in the sessions as solicitor.

Sect. 14. And no clerk of the peace, under-sheriff, or their deputies, shall act as solicitor, attorney, or agent, or sue out any process at such sessions, on the like pain of 50*l.*

As to the right of a counsel or attorney to be present as the legal adviser of the party, see *Justices*, Vol. III. p. 471.

III. The Mode of Proceeding at Sessions.

And herein—1. Of the Mode of Proceeding in General—2. The Trial of Offences—3. The Trial of Traverses—and, 4. The Hearing of Appeals.

(1.) In General.

It is necessary that the court should assemble before twelve at noon on the day for which it is summoned; for, by the 25 Car. II. c. 2, s. 2, the qualification oaths, &c., must be taken between the hours of nine and twelve in the forenoon.

Hour.

A bailiff then usually proclaims the session, in the following terms:

O yez, O yez, O yez,—The king's justices do strictly charge and command all manner of persons to keep silence, whilst the king's commission of the peace for this county is openly read, upon pain of imprisonment.

Proclamation.

The commission, the king's proclamation against vice, &c., and the several statutes directed to be read at the sessions, ought now to be read by the clerks of the peace and the town clerks respectively. These were principally the following:—5 Eliz. c. 1, against popery (*a*); 30 Car. II. c. 3, as to burying in woollen (*a*); 11 & 12 Wil. III. c. 15, (*a*) as to ale measures; 1 Geo. I. c. 5,

Statutes to be read.

(a) These statutes are most of them now repealed: see the respective titles of *Popery*, *ante*, p. 147; *Weights and Measures*, *post*; *Riots*, *ante*, p. 277;

Malicious Injuries to Property, Vol. III.; *Jurors*, Vol. III.; *Bribery*, Vol. I.

MODE OF PRO-
CEEDING AT,
IN GENERAL.

as to riots; and the black act, 9 Geo. I. c. 22, (a) which have been required to be given in charge at every quarter session; and the 4 & 5 W. & M. c. 24; 7 & 8 Wil. III. c. 32; 3 & 4 Anne, c. 18; and 3 Geo. II. c. 25, (a) concerning jurors, which are to be read in Midsummer sessions yearly; and 2 Geo. II. c. 24, (a) for preventing bribery and corruption in the election of members of Parliament, which is to be read at every Easter session.

Discontinued.

It will not be wondered at, that, in the present day, when the time allowed to justices for the performance of their duties has become so much more valuable from the additional pressure of business, the practice of reading these statutes is discontinued. Some of them, besides, are now repealed, some have become obsolete, and the notoriety of the others renders such a course unnecessary.

Return of pre-
cept.

The sheriff is then called on to return the several precepts directed to him, returnable on that day, that proceedings may be commenced thereon.

Oaths to be taken.

The persons who attend to take the several oaths are next called, and such oaths are administered to them by the clerk of the peace.

We have already noticed the act 25 Car. II. c. 2, and 1 Geo. I. c. 13, which direct persons to take the oaths between the hours of *nine* and *twelve* in the forenoon; and *not otherwise*. But it has been held a sufficient compliance with the statute, if the ceremony of administering the oaths of qualification for offices be commenced previous to the last of the hours of limitation appointed by the statute, and continued till all are sworn. *Dick. Sess.*

Calling constables, &c.
Defaulters.

The oaths of qualification and indemnity having been administered, it is then usual for the clerk of the peace to call over the constables of hundreds, and of parishes, &c., which is commonly done (with respect to the defaulters on the first call) a second, and even a third time. On their not answering to the name of their respective parishes for which they serve, the court will set a fine on the defaulters.

Grand jury called.

The names of those returned to serve on the grand jury are now called over by the clerk of the peace (or in cities and towns corporate by the town-clerk). For matters relating to the qualification, &c., of those jurors, see title *Juror*, Vol. III. p. 404, &c. The number called and sworn should not be less than thirteen, nor more than twenty-three; and it is not unusual at sessions, after sixteen or seventeen names have been called, and the parties have appeared, to consider the inquest as complete, and to dismiss the rest who have attended on their summons.

Chairman's charge.

The ceremony of administering the oaths to the grand jurors being concluded, the chairman of the session ought to deliver his charge, proclamation having been made to keep silence while the charge is given. (b)

(a) See note (a), in preceding page.

(b) "It is much to be lamented," says Mr. *Dickenson*, in his work on Sessions, "that this part of the chairman's duty is very frequently altogether omitted, and sometimes performed in a very cursory, and even slovenly, manner. The calendar generally presents sufficient occasion for observations on the general state of morals in the particular district; on the activity of justices, chief constables, and all officers of the peace; and on other subjects immediately connected with the duties of the day: and there can be few instances of a session occurring in which there is not some indictment or other to come before the jurors, on which some information may not be, at least, convenient and acceptable, if not absolutely necessary. Indictments for assault, which frequently

originate in a spirit of party, malice, or revenge, and are usually one item in the business of a quarter session, present a fruitful source of observation; indictment of roads, another; and some modern statutes (*ex. gr.* those which respect the coin, embezzlement by servants, friendly societies, saving-banks, seditious meetings, and the regulation of the poor of all descriptions) comprehend so many more points of discrimination, as it is no disparagement of the discernment of such persons as usually compose the grand juries at quarter sessions, to say, must be much above their comprehension, without some explanatory remarks from the chairman, by way of previous charge."

These observations on the necessity for a charge, at all events, naturally lead to some consideration of the suf-

The charge being concluded, the course is to call the recognizances, especially such as are to prosecute and give evidence, that so bills, which have not been previously prepared, may be drawn by the clerk of the peace.

If jurisdiction be given to the sessions to hear and determine, and the statute doth not say by information, this shall be by indictment, and not upon information. *Dalt. c. 191, p. 469.*

Where a power is given to a jurisdiction which does not ordinarily entertain actions, bills, or complaints, in general terms, *to inquire of, hear, and determine* the offence, it must be understood to mean by the common-law mode of proceeding, viz. by indictment or presentment. *Shipman, q. t. v. Herbert, 4 T. R. 109.*

Though, in certain and particular cases, an action may be brought at the assizes or the sessions, by the 5 & 6 Edw. VI. c. 14, 5 Eliz. c. 4, s. 39, and 21 Jac. I. c. 18, s. 12, an action, bill, or plaint, cannot, by the common law, be brought at the assizes or the sessions. 4 T. R. 115.

The 1 Jac. I. c. 22, gives certain penalties to be recovered (s. 46) by action of debt or information in the courts at *Westminster*; and the 50th section gives jurisdiction to the justices of assize of gaol delivery and of the peace, to inquire of the premises, and to hear or determine the same; under the latter clause, the inferior courts can only proceed by indictment or presentment; and the informer may bring an action of debt in the superior courts at *Westminster*, notwithstanding the 21 Jac. I. c. 4. *Id.*

The true meaning of the 21 Jac. I. c. 4, is this: wherever, by any act then in force, the informer might have sued by action, bill, plaint, suit, or information, in the inferior courts, as well as in the courts at *Westminster*, he is confined to sue in the former. But as this stat. gives no new jurisdiction to the inferior courts, the party may still sue in the courts at *Westminster*, for all those penalties which could not, before the passing of that statute, have been recovered in the inferior ones. *Ib.* 117.

The bills, as they are got ready—that is to say, drawn out fairly and engrossed on parchment (either by the prosecutor's professional adviser, or by the clerk of the peace), with the names of the witnesses written on the backs of them respectively, are delivered to the grand jury, and the parties bound to give evidence upon them, being sworn in court, are sent to the grand jury to give their evidence. It is presumed, of course, that they are all in attendance for these purposes, either by recognizance or under *subpoena*; to which there can regularly be but one exception, and that arising out of a privilege given by a statute to prosecutors of offences committed within the county of a city, or town corporate, to prefer their indictments before the grand jury of the county adjoining, at the assizes for the same, on condition of entering into recognizance to pay the extra costs incurred by such proceeding, if the court shall so direct. In the case of this privilege being taken advantage of, it may be necessary to notice here, that the prosecutor, *ten days*

MODE OF PROCEEDING AT, IN GENERAL.

Recognizances called.

Sessions to proceed by indictment.

Bills.

scency of the chairman to discharge this duty, and therefore to introduce a decided reprobation of a measure lately introduced into some counties, of the respective justices taking the chair by rotation. Nothing can be more subversive of regularity, consistency in practice, expedition in business, information to the jurors, authority over the advocates, or satisfaction to the country, than such a practice. To execute the various duties of chairman of a quarter session, as they ought to be executed, requires the *personal* qualifications of some legal knowledge, reasonable experience, an acquaintance with forms and technical proceedings, and a portion

of that decision and authority, which can only be acquired by a confidence in the possession of these qualities, to at least a certain degree. Unless the chairman possess these requisites to some extent, the jury can receive no information, inexperienced advocates will run riot, and the county will not feel that respect for the court, which it is both desirable and useful that it should do. It leads also to another consequence, which ought neither to be agreeable to himself or the bench, or the suitors of the session, viz. that the clerk of the peace, being the only permanent and stationary organ of the court, instead of its minister, becomes its master.

MODE OF PROCEEDING AT, IN GENERAL.

before the session, must give to the defendant, as well as to the witnesses, notices in writing to that effect. *Dick. 3, Sess. p. 90.*

Justices of quarter sessions or general sessions of the peace, may appoint two or more justices (one to be of the quorum), to form a court to sit apart from them.

The dispatch of business in the sessions is now greatly assisted by the enactment of the 59 Geo. III. c. 28, "An Act to empower Magistrates to divide the Court of Quarter Sessions." That act directs, "that whenever and as often as any court of quarter session or general session of the peace shall be assembled for the dispatch of business thereunto belonging, the justices then present may, on the first day of their being so assembled, take into their consideration the state of the business likely to be brought before them at such quarter session or general session; and if it shall appear to them that such business, if heard and determined by the whole court, is likely to occupy more than three days, including the day of their being so assembled, it shall and may be lawful for the said justices to appoint two or more justices, one of whom shall be of the quorum, to sit apart from themselves in some place in or near the court, there to hear and determine such business as shall be referred to them, whilst others of the justices are at the same time proceeding in the dispatch of the other business of the same court; and that the proceedings so had by and before such two or more justices so sitting apart shall be as good and effectual in the law to all intents and purposes as if the same were had before the court assembled and sitting as usual in its ordinary place of sitting, and shall be enrolled and recorded accordingly."

Regulations made for the apportionment of business need not be renewed at each succeeding session.

Sec. 2. "That when two or more justices shall have sat apart in manner before directed by this act, and orders, rules, and regulations, shall have been made for the apportionment of business, such orders, rules, and regulations, shall remain and continue in force as long as shall be thought expedient, without the necessity of renewing such orders, rules, and regulations at each succeeding session, to the intent that the same may become public and better known to all professional and other persons engaged in or in any manner interested in the business of such quarter session."

Clerk of the peace to appoint a person to record the proceedings of such separate court.

Sec. 3. "That the clerk of the peace or his deputy (wherever two or more justices shall sit apart at any quarter session) shall be authorized and required to appoint a fit and sufficient person to record the proceedings so had before the justices sitting apart; and such proceedings shall be delivered over to the clerk of the peace or his deputy, and shall be equally deemed to be a part of the records of such session, as if the same proceedings had been recorded by the clerk of the peace himself; and it shall be lawful for the justices assembled at the quarter session to make an order upon the treasurer of the county to pay to the clerk of the peace such sum or sums of money as they shall deem a fit and reasonable remuneration to the clerk of the peace for such purpose as aforesaid; and it shall be lawful for such justices to appoint an additional cryer, and to grant him such remuneration for his care and pains as they shall deem reasonable, which shall in like manner be paid by the treasurer of the county."

Quarter sessions may order county treasurer to remunerate clerk of the peace.

Remarks on the power of dividing.

This power of dividing, it may be right here to observe, may, according to the second section of the act, either be exercised at each particular session, as the necessity for it shall arise, or it may be provided for prospectively for any number of sessions that may be thought convenient; and, for the effectual execution of the purposes designed by it, the sessions are authorized to call upon the clerk of the peace to appoint a deputy, and for themselves to appoint an additional cryer for such engrafted or emanant court, and to remunerate them respectively for their labours by order on the county treasurer.

In noticing this act, Mr. Dickenson has observed, that, to whatever extent the authority confined by this statute be exercised, when the grand jury have received their instructions from the chairman, and have retired to their room, seems the proper moment for the division of the court to take place. The most natural distribution of the various subjects over which a quarter sessions of the peace now has jurisdiction, seems to be, that one division of the court should take that portion which requires the intervention of a jury, with the motions arising out of, or relating to, the commencement, the postponement, and the result of prosecution, whatever it may be; while the other is occupied

with the exercise of the summary jurisdiction given to justices by statute, whether original, or by appeal from that of individual magistrates. *Dick. Sess. p. 102.*

TRIALS FOR
OFFENCES.

(2.) In Trials for Offences.

A great part of the business of session consists of the arraignment and trial of prisoners: it will be proper in this place, therefore, to take some notice of the manner of proceeding thereupon; though in the title Arraignment, Vol. I. some information, touching these matters, has been already given.

It is said generally, that *all offences* shall be prosecuted at the sessions by presentment, information, or indictment. *Com. Dig. Justice, (D. 9.)* But if jurisdiction be given to the sessions to *hear and determine*, and it be not expressly said "by information," the offence must be prosecuted by indictment only. 4 T. R. 109. And see further, *ante*, 459.

The bills of indictment having been delivered into court by the grand jury, the gaoler is called to set his prisoners to the bar, and the crier being called to *make a bar*, that is, to dispose of the company, that a way may be made open from the court to the prisoners, and that the court, jury, and prisoners may see each other, one of the prisoners is called to:—"A. B., hold up your hand."

Yet it is not necessary that he hold up his hand at the bar, or be commanded so to do; for this is only a ceremony, for making known the person of the prisoner to the court, and if he answer that he be the same person, it is all one. 2 *Haw. c. 28, s. 2.*

The indictment is now read, and, in cases of *felony*, this is a proceeding of the utmost consequence, because the prisoner, not being, as it seems, entitled to a copy (*a*), has no other means of knowing the precise charge to which he is to answer. Even at the time when our judicial proceedings were written in Latin, the 37 Edw. III. c. 15, required that this important document should be done in English. The charge should be laid in the second person, and be read slowly and distinctly—as thus: "*You, A. B., stand indicted, by the name of A. B., late of, &c., in the county of, &c., for that you, on, &c.,*" reading the whole indictment in the same manner. If it be demanded by the prisoner, the indictment must be read so slowly as to enable his solicitor to take a copy as the officer proceeds—for the law entitles him to this privilege.

The reading of the indictment being concluded, the officer addresses the prisoners, "*How say you, A. B., are you guilty of the felony whereof you stand indicted, or not guilty?*" If the prisoner pleads guilty, the court may immediately record the plea, and either proceed immediately to give judgment, or examine witnesses as to the circumstances of the offence, for the guidance of their own discretion in determining on the sentence. But it is usual for the officer to explain to the prisoner the consequence of his plea, and to ask him again whether he persists in it; and there is a very prevalent practice among judges of assize of doing far more than this—of entreating the prisoner to withdraw his plea, admonishing him of his right to a trial, and manifesting the greatest reluctance to receive his open confession of guilt. How far this practice at sessions shall be adopted, must be left to the good sense of the chairman. *Dick. Sess. by Talfourd, p. 340.*

If the prisoner has any matter to plead, either in abatement or bar of the indictment, as *misnomer*, *autrefois acquit*, *autrefois convict*, a pardon, &c., he shall plead it upon arraignment, without answering to the felony. 2 *Hale, 219.*

For further information regarding the above pleas, see titles Abatement, Vol. I., Misnomer, Vol. III., Autrefois Acquit, Vol. I., Autrefois Convict, Vol. I., &c. And as to standing mute, see title Mute, Vol. III., Plea, *ante*, p. 105.

(a) See the law and authorities on this subject, 10 B. & C. 70; and Indictment—Vol. III. p. 356, 357.

**TRIALS FOR
OFFENCES.**

Plea—not guilty.

If the prisoners plead not guilty, it was customary, before the enactment of the 7 & 8 Geo. IV. c. 28, s. 1, for the officer to ask him, "How will you be tried?" and to direct him to make answer, "By God and my country;" to which the officer then rejoined, "God send you a good deliverance." These forms are, however, now abolished by the statute alluded to, which directs, that when a prisoner shall plead not guilty, he shall by such plea, without any further form, be deemed to have put himself on the country for trial, and the court shall, in the usual manner, order a jury for the trial of such person accordingly. The plea is, however, still recorded by the officer, who writes the words *ponit se* on the parchment record of the proceedings of the sessions.

The question, "How will you be tried," may be well imagined to have been in former times of some importance, when it is remembered that trials by battle and ordeal were then in use, as well as by the country or a jury.

**Arraignment.
Humanity to-
wards the pri-
soner.**

Mr. *Hawkins* observes, that every person at the time of his arraignment ought to be used with all the humanity and gentleness which is consistent with the nature of the thing, and under no other terror or uneasiness than what proceeds from a sense of his guilt, and the misfortune of his present circumstances, and therefore ought not to be brought to the bar in a contumelious manner, as with his hands tied together, or any other mark of ignominy and reproach; nor even with fetters on his feet, unless there be some danger of a *rescous* or escape. 2 *Haw. c.* 28, s. 1.

And the court ought to exhort him to answer without fear, and to acquaint him that he shall have justice done to him. 2 *Inst.* 316.

**Prisoner not to
have counsel in
treason or fel-
ony.**

On indictments of treason or felony, the prisoner shall not have counsel allowed to him, unless a point of law arise, proper to be debated; nor a copy (a) of the indictment. 2 *Haw. c.* 39, s. 2, 13.

But, in offences under felony, a defendant may be heard by his counsel. *Wood's Inst. B.* 4, c. 5.

Jury called.

When a sufficient number of prisoners are arraigned, the petty jury are called on their panel by the clerk of the peace, in this manner: "You good men that are returned and impanelled to try the issue joined between our sovereign lord the king and the prisoners at the bar, answer to your names, and save your fines;" which done, and a full jury appearing, the clerk of the peace calls the prisoners to the bar, and informs them of their right to challenge, in these terms:—"These good men, whose names you hear called, and who appear, are those who are to pass between our sovereign lord the king and you, upon your respective trials. If, therefore, you or either of you would challenge them, or any of them, you must challenge them as they come to the book to be sworn, before they are sworn, and you shall be heard."

**Severing chal-
lenge.**

This, then, is the proper time for the prisoner or for the prosecutor to make challenges; for no challenge is good until a full jury appear. *R. v. Edmonds*, 4 *B. & A.* 471; and see, further, *Jurors*, Vol. III. p. 426, &c.

Every prisoner may desire the right of challenge separately; and if he demand his right in legal phrase, "to sever in his challenges," the other prisoners will be desired to withdraw, that he may make his challenges alone.

Praying a tales.

If there be a defect of jurors, a party intending to challenge the array may pray a *tales*, and then make his challenge. See Vol. III. p. 432.

As to *causes of challenge*, and other information on this head, see *Jurors*, Vol. III. p. 426, &c.

Jury sworn.

The challenges being concluded, and the jury full, the clerk of the peace calls the jury to be sworn, every man severally; and this is done, in cases of felony, in the following manner:—

"*You shall well and truly try, and true deliverance make, between our sovereign lord the king and the prisoners at the bar, whom you shall have in charge, and a true verdict give according to the evidence. So help you God.*"

In misdemeanor.

In cases of misdemeanor, the jurors are sworn four at a time, in the following terms:—

(a) As to this, see the case of *Broune v. Cumming*, 10 *B. & C.* 70; and *Indictment*, Vol. I. p. 357.

"You shall well and truly try the issues joined between our sovereign lord the king and the defendant, and a true verdict give, according to the evidence. So help you God."

The crier then counts the jurors, as the clerk of the peace reads their names, and asks them "if they are all sworn."

After the jury are sworn, in cases of felony, the crier makes proclamation as follows:—

"If any one can inform my lords the king's justices, the king's attorney-general, or the king's serjeant, on this inquest now to be taken, of any felonies or misdemeanors done or committed by the prisoner at the bar, let him come forth, and he shall be heard; for the prisoner now stands at the bar on his delinquency; and they that are bound to prosecute and give evidence, let them come forth, and prosecute and give evidence, or they will forfeit their recognizances."

The form used in cases of misdemeanor is similar to the above, with the omission of the term "felony," and the substitution of the word "defendant," for "prisoner," and the omission of the standing at the bar, &c.

The prosecutor and his witnesses are then called by name, and on appearance, take the places assigned them in court.

Prosecutors and
witnesses called.

In cases of misdemeanor, the prosecutor's counsel now at once opens trial; but in felonies, another form yet remains,—it is termed *charging the jury*.

All the prisoners, except one to be tried, are put from the bar, and the clerk of the peace charges the jury as follows:—

"The prisoner at the bar stands indicted by the name of A. B. [reading the indictment, as upon the arraignment]; upon this indictment he has been arraigned; upon his arraignment, has pleaded not guilty; and for his trial has put himself upon God and his country, which country you are. Your charge, therefore, is to inquire whether he be guilty of the felony whereof he stands indicted, or not guilty, and to hearken to the evidence."

The witnesses, as well for the king as the prisoner, are then sworn thus:—

Witnesses sworn.

"The evidence you shall give to the court and jury sworn, between our sovereign lord the king and the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth. So help you God."

The trial then proceeds: if the case be one of misdemeanor, and there be two or more counsel for the prosecution, the substance of the indictment, which the jury have not yet heard, must be stated by the junior; in cases of felony, this is of course superfluous, the indictment having been already twice read in the hearing of the jury; and, although in former times it was observed, it is now, in sessions practice, generally disused. It often occurs at sessions, that the case is of so plain a nature as not to require opening; when this is not the case, however, it is opened by the leading counsel, according to his instructions.

Trial begins.

Opening of case
by counsel.

In treating of this important duty, Mr. Talfourd observes, that it ought to be confined to a simple detail of the facts expected to be proved:—"because the prisoner has no opportunity of laying his case before the jury by his counsel; and even the privilege of stating circumstances, however dryly, in such order and connection as may tend most directly to a particular conclusion is, in itself, no small advantage accorded to the prosecutor, and certainly should be exercised with great forbearance and caution. It is especially right for counsel to refrain from stating any part in the case, the proof of which, from his own brief, may appear doubtful; because he may thus produce an erroneous impression on the minds of uncultivated men, which the mere failure of the evidence may not remove, and on which the prisoner is generally quite unable to comment. For the same reason he should always forbear from stating confessions, which often turn out to be inadmissible; and should very rarely detail conversations, which are peculiarly liable to be misunderstood, and the whole bearing of which may be altered by the omission or transposition of a word. In cases of misdemeanor, the prosecuting counsel is not thus restricted, because here the defendant is allowed to make a real defence by his counsel, and, therefore, here the counsel for the prosecutor may not only state his facts, but reason upon them, and anticipate any line of defence which his opponent

**TRIALS FOR
OFFENCES.**

Prosecutor not
allowed to ad-
dress the jury.

may probably adopt ; but, even here, he should refrain from indulging in in-
vective, and from appealing to the prejudices or passions of the jury ; for it is
neither in good taste nor in right feeling to struggle for a conviction, as an ad-
vocate in a civil cause contends for a verdict."

A prosecutor is never allowed personally to address the jury ; he can only
be examined on his oath, in the box, like another witness. The cause, though
instituted by him, is not considered *his* cause, but that of the crown : when no
counsel, therefore, is engaged for the prosecution, there can be no opening ;
and the duty of examining the witnesses devolves on the chairman. In cases
of felony, the depositions taken before magistrates are of much importance in
assisting him in this duty ; they ought, therefore, in all cases, to be returned by
the magistrates before whom they were taken. In cases of misdemeanor, he
can merely call on the witnesses upon the back of the indictment, to be sworn,
and give their own narrative.

Evidence.

The reader who wishes for information respecting the parts of the charge to
be established, the degree and nature of proof necessary, and the admissibility
of witnesses, &c. is referred to title *Evidence*, Vol. II.

Case closed.

On the case for the prosecution being closed, it is the duty of the chairman,
in all cases where the prisoner has no counsel, and in cases of felony, though he
has counsel, to ask him what he has to say in answer to the charge.

And, of late years, the judges never scruple to allow the prisoner counsel, to
instruct him what questions to ask, or even to ask questions for him, with re-
spect to matters of fact. 4 *Bla. Com.*

Court to be of
counsel with him.

And at this day it is the practice never to object to the allowance of coun-
sel, if the prisoner can procure them. If there be none other, the court is to
be of counsel with the prisoner, and ought to advise him for his good, and not
take advantage too strictly against him. *Dalt. c. 185, p. 460.*

Upon the trial of issues, which do not turn upon the question of guilty or
not guilty, but upon collateral facts, prisoners under a capital charge, whether
for treason or felony, always were entitled to the full assistance of counsel.
Fost. 232, 242.

Office, &c. of
counsel for pri-
soner.

On this subject, of the office of counsel for a prisoner, and of the objections he
may address to the court on the prosecutor's case, we shall extract from Mr. *Talfourd's*
work on *Sessions* :—"In cases of felony, the prisoner's counsel has never a right
to address the jury on the merits of the case ; but he may now submit to the bench
any point of law arising on the evidence, or any absolute deficiency of proof
as to a part of the charge, which may entitle his client to an acquittal. Thus,
he may submit that there is no evidence of any part of the offence occurring
within the county where the trial is had ; that there is a substantial variance be-
tween some material allegation and the proof offered to support it ; that the
offence, supposing the evidence to be credible, does not amount in law to that
which is charged, as that an appropriation charged as a larceny is a mere
breach of trust, or an embezzlement ; for these are matters which show that the
prisoner ought not to be put on his defence. He may sometimes submit that
there is nothing for the jury to consider, as when the charge is not brought
home to his client at all ; and if the bench think so, they will direct an acquit-
tal ; but counsel will not be permitted to argue on the slightness of the evi-
dence where there is any applicable to the prisoner, or to discuss questions
which are properly for the jury, as questions of knowledge and intention.
Where an objection is taken which the bench do not immediately overrule,
the counsel for the prisoner are first heard in its support ; the counsel for the
prosecution then give their answer to it *seriatim* ; and the leading counsel for
the prisoner (if he has more than one) replies ; after which the justices delibe-
rate, and the chairman collects their votes, and announces their decision.
Where the objection relates to the absence of some formal proof, which can be
immediately supplied, the court always allows such proof to be given, for it
will not permit justice to be defeated by a mere accidental omission of counsel.
When the bench has decided that the case for the prosecution has failed in
point of law, the chairman ought not to *recommend*, but to *direct* the jury to ac-
quit ; and the officer ought immediately to take and record the verdict."

On the case being submitted to the jury, the prisoner, in case of felony, and the defendant, or his leading counsel, in case of misdemeanor, is entitled to address them. The party accused may well be supposed to labour under many disadvantages, on being obliged to defend himself: any statement, therefore, which he may submit, ought to be heard attentively and patiently; and although, as has been observed, it is not made on oath, and not supported by proof, still, if it carries with it the appearance of sincerity, and offers a reasonable explanation of the circumstances which seem to bear against him, it ought to be carefully weighed and candidly estimated by a jury.

IN TRIALS FOR
OFFENCES.
Defence.

In cases of misdemeanor, the counsel for the defendant may comment on the case for the prosecution; he may adduce evidence to any extent, and even introduce new facts, provided he can establish them by witnesses. He cannot, however, assume as proved that which is not proved.

In cases of felony, the counsel for the prosecution never replies. In cases of misdemeanor, where witnesses are called (except merely to character), he has a right to reply in every instance, similar to that of a counsel in a civil action. If the witnesses are called merely to give evidence as to character, a usage has long prevailed among counsel in the highest criminal courts of forbearing to reply, which, however it originated, is now firmly established and acted on. But in the case of the *King v. Bignold*, 4 D. & R. 70, Lord Tenterden revived an important rule, originally promulgated by Lord Kenyon, and by which a reply is allowed to the counsel for the prosecution, if the counsel for the defendant, in his address to the jury, states any fact, or any document which is not already in evidence, although he afterwards declines to prove the fact, or put it in writing. But it would be scarcely fair, as has been remarked, to apply this rule to a statement made by a defendant in person, and unsupported by evidence.

Right of counsel
to reply.

It is now the duty of the chairman, the case on both sides being closed, to sum up the evidence. His address ought to be free from all technical phraseology, the substance of the charge plainly stated, the attention of the jury directed to the precise issue to be tried, and the evidence applied to that issue. In cases of felony, it may be necessary to read over the whole evidence: if requested by the jury, this will of course be done, though, in general, it is better merely to state its substance.

Summing up.

Reading evi-
dence.

If the jury cannot agree on their verdict at the bar, a bailiff must be sworn to keep the jury thus:—

Verdict.

"You shall swear that you shall keep this jury without meat, drink, fire, or candle; you shall suffer none to speak to them, neither shall you speak to them yourself, but only to ask them whether they are agreed: So help you God." Dalt. c. 185, p. 460.

The jury coming back, the prisoner is brought to the bar; the names of the jury are called over, and the verdict taken as before. Dalt. c. 18, p. 460.

The officer then, in case of felony, desires the prisoner to hold up his hand, and addresses the jury—

"Gentlemen, are you agreed on your verdict? do you find the prisoner guilty of this felony whereof he stands indicted, or not guilty?"

The foreman then delivers the verdict, which, in cases of felony, can only be received in open court, and in the prisoner's presence, though the court may be adjourned during the deliberation. Co. Lit. 227.

In cases of misdemeanor it may be delivered elsewhere, and is often given in the defendant's absence. 5 Burr. 2667.

When the verdict is delivered, the officer proceeds to ask the same question as to the other prisoners, if there are any, included in the charge; and having received their answers in like manner, severally addresses them—

"Hearken to your verdict as the court recordeth it: you say A. B. is guilty [or, not guilty] of the felony whereof he stands indicted [and so of the others, if more than one]; this is your verdict, and so ye say all."

The verdict is at the same time recorded.

TRIALS FOR
OFFENCES.
Proceedings on
verdict of guilty.

The verdict of guilty having been returned, the prisoner, or the defendant, if present in court, is called upon to say why judgment should not be passed upon him. He may here offer something to the court in extenuation of his offence; or he may (says *Blackstone*, 4 *Com.* 375) at this period, as well as at his arraignment, offer any exceptions to the indictment, in *arrest* or stay of judgment: as, for want of sufficient certainty in setting forth either the person, the time, the place, or the offence. To this species of error alone the privilege is confined.

Sentence.

If nothing is offered in extenuation, or something so trifling as not to require further deliberation, sentence is generally passed immediately; proclamation having been made three times by the crier of the court, as follows:

"O ye, O ye, — All manner of persons are commanded to keep silence, whilst judgment is given against the prisoners at the bar, upon pain of imprisonment."

In trials for misdemeanors, this proclamation is not made, and in the less important cases of felony it is often omitted.

The prisoner is then placed at the bar, and sentence pronounced by the chairman. On the subject of this important part of a justice's public duty—in the exercise of which, as has been well remarked, the law has left the *most* to his *discretion*, with the *fewest* means of regulating his *judgment*—we subjoin a note by Mr. *Dickenson*, from his work on Sessions:—

"Where statutes have conferred upon individual magistrates, or even upon sessions, the authority of summary convictions, without the intervention of jurors, they have limited the penalties for the offences created or punished by them within *narrow generally*, but *always* within *prescribed* bounds; while, with respect to fines, imprisonment, and even transportation, they have, of necessity perhaps, left to them the same latitude of apportionment as to the judges of the superior courts, although frequently persons without the same professional experience, the same familiar acquaintance with the multiplied inducements to the commission of crimes, or the same means of discrimination respecting the effects of punishment. The present purpose is, therefore, to impress upon the minds of those who are only commencing their career in the public duties of magistracy, not merely the justice and humanity, and therefore the duty, but even the policy also, of exercising the most unprejudiced and temperate discrimination in the distribution of punishments, on account of the salutary consequences which may reasonably be expected from it. The punishments ordained by municipal regulations may not improperly be designated by the epithets 'admonitory,' 'exemplary,' and 'vindictive.' To discriminate further than this, might perhaps incur the imputation of fanciful refinement; but thus far it may not be too much to insist. The first suggestions of common sense and common benevolence need not wait for the sanction of experiment, for they are to be found in the very rudiments of civilization. To the novice in delinquency, punishment is intended primarily to operate as an individual admonition; and where the heart has not been absolutely depraved, but only the passions excited, or the temerity of youth stimulated by excessive temptation or the influence of bad example, it will frequently have its due effect, if administered with that moderation which corrects without degrading. *Nemo repente turpissimus*, is an adage as true in point of fact as necessary to be kept in mind by those, whose rank and duties call upon them to mark with precision of punishment the deviation of ignorance and frailty from the path of rectitude. On a repetition of offences, where it is ascertained, indeed, that admonition has failed to correct, to deter, by making the culprit an example, becomes a duty to society: for compassion to the individual may then well give way to the general protection of the social system. Nevertheless, till amendment has become entirely hopeless, the severity of punishment should be short of that which cuts off all retreat from an association with the vicious. The third, and last, stage of depravity is that alone in which moderation may cease to be considered as an attribute of justice. In that extremity, society has an ample right to manifest its resentment; and the administrators of its laws are justified in becoming the ministers of its wrath; because cutting off (by removal or disgrace) the morbid member from the general body becomes the only method of preventing the communication of contagion."

(3.) In Trials of Traverses.

For information as to traverses generally, see title *Traverse*, *post*.

The trials for misdemeanors are not in general brought on till after the felonies.

Then may be called the persons bound by recognizance at the last sessions, *Traverses tried*. to prosecute their traverses at the present sessions. For if a person indicted for an assault or misdemeanor do appear, and plead not guilty, and traverse the indictment, he shall enter into his recognizance to prosecute his traverse at the next quarter sessions. For, in *Bumpsted's case*, *Cro. Car.* 448, the whole court was of opinion, that justices of the peace may not inquire, try, and determine civil offences, in one and the same day; for the party ought to have a convenient time to provide for the trial.

A defendant cannot be tried on any traverse until he shall have obtained from the clerk of the peace a record of the proceedings, and a *venire facias*, which he must get returned by the under-sheriff, and his traverse must afterwards be entered with the clerk of the peace.

Where a bill for an assault or misdemeanor is found against a defendant not in custody, he cannot be tried at the same session, unless under the 60 Geo. III. and 1 Geo. IV. c. 4, or by the consent of the prosecutors. See *Traverse*, *post*.

And, on the trial of a traverse, the defendant must appear in the court, at the bar, in his proper person; and then the indictment is read to the jury: and the prosecutor and his witnesses are called to give evidence, and are heard; and if the defendant be found guilty, the court sets a fine upon him adequate to the offence, or other punishment as the law directs.

In cases of assault, the court frequently recommends the defendant to talk with the prosecutor,—that is, to make him amends for the injury done him; and if the prosecutor come and acknowledge a satisfaction received, the court will set a small fine on the defendant.

“But this,” says *Blackstone*, “surely is a dangerous practice; and, though it may be entrusted to the prudence and discretion of the judges in the superior courts of record, it ought never to be allowed in local or inferior jurisdictions, such as the quarter sessions; where prosecutions for assaults are by this means too frequently commenced, rather for private lucre than for the great ends of public justice. Above all, it should never be suffered where the testimony of the prosecutor himself is necessary to convict the defendant; for by this means the rules of evidence are entirely subverted: the prosecutor becomes in effect a plaintiff, and yet is suffered to bear witness for himself.” See *Stuart*, Vol. I.

Sometimes the prosecutor and defendant agree before the defendant pleads to the indictment; and then the defendant comes into court in his proper person, and pleads guilty to the indictment; and upon proving, by a subscribing witness, a general release executed by the prosecutor, the defendant submits to a small fine, such as the court is pleased to impose. *Cro. Cir. C.* 21.

There are frequent prosecutions at the sessions for trifling assaults; in which case it is advisable for a defendant not to put himself to the expense of trying the indictment, but to give notice to the prosecutor that he intends to plead guilty to the indictment; in which case the prosecutor attends the court with his witnesses, and gives evidence of the nature of the offence; and then the court proceeds to fine the defendant: but the court will admit the defendant to call such witnesses as he desires, and will examine them by way of mitigation. *Cro. Cir. C.* 22.

IV. The Jurisdiction, Powers, and Duties of the Sessions.

(1.) In what Matters.

The court of quarter sessions has a jurisdiction criminal and civil, given to it by the commission of the peace itself, as settled under the 18 Edw. III. c. 2, *civil* and 34 Edw. III. c. 1, and by the express provisions of numerous statutes.

IN WHAT
MATTERS.

(1) CRIMINAL JURISDICTION.—As far as respects its jurisdiction to hear and determine indictments, it appears to derive its origin from the 18 Edw. III. c. 2, and 34 Edw. III. c. 1, already mentioned.

These statutes are as follow :

18 Edw. III. s. 2, c. 2.—“Item, that two or three of the best of reputation in the counties shall be assigned keepers of the peace by the king's commission ; and, at what time need shall be, the same, with other wise and learned in the law, shall be assigned by the king's commission to hear and determine felonies and trespasses done against the peace in the same counties, and to inflict punishment reasonably, according to law and reason, and the manner of the deed.”

34 Edw. III. c. 1.—“First, that in every county of England shall be assigned, for the keeping of the peace, one lord, and with him three or four of the most worthy in the county, with some learned in the law, and they shall have power to restrain the offenders, rioters, and all other barrators, and to pursue, arrest, take, and chastise them, according to their trespass or offence ; and to cause them to be imprisoned and duly punished, according to the law and customs of the realm, and according to that which to them shall seem best to do by their discretions and good advisement ; and also to inform them, and to inquire of all those that have been pillors and robbers in the parts beyond the sea, and be now come again, and go wandering, and will not labour as they were wont in times past, and to take and arrest all those that they may find by indictment, or by suspicion, and to put them in prison ; and to take of all them that be not of good fame, where they shall be found, sufficient surety and mainprize of their good behaviour towards the king and his people, and the other duly to punish, to the intent that the people be not by such rioters or rebels troubled nor endamaged, nor the peace blemished, nor merchants nor other passing by the highways of the realm disturbed, nor put in the peril which may happen of such offenders. And also to hear and determine at the king's suit all manner of felonies and trespasses done in the same county according to the laws and customs aforesaid ; and that writs of *oyer* and *determiner* be granted according to the statutes thereof made, and that the justices which shall be thereto assigned be named by the court, and not by the party. And the king will, that all general inquiries before this time granted within any seigniorities, for the mischiefs and oppressions which have been done to the people by such inquiries, shall cease utterly and be repealed ; and that fines, which are to be made before justices for a trespass done by any person, be reasonable and just, having regard to the quantity of the trespass, and the causes for which they be made.”

Who shall be
justices of the
peace, and what
authority they
shall have.

Justices of peace
may hear and
determine felo-
nies and tres-
passes.

Commission of
the peace.

At first, as we have seen, *ante*, Vol. III. p. 447, the justices were only conservators of the peace, and the subsequent power to hear and determine, given by these statutes, means only that such an authority may be delegated to them by commission. 1 *Bla. Com.* 351 ; 1 *Stra.* 442. For this reason it is that a caption of an indictment found at the sessions, must show that the commission gave the court jurisdiction over the offence, as this cannot be intended. 1 *Stra.* 442. It has been said, that the commission of the peace was altered into the present form immediately after making those statutes (1 *Stra.* 442 ; 1 *Bla. Com.* 351) ; but some authors state, that it was settled as we find it at present by the judges about the thirty-third year of Queen Elizabeth. 2 *Haw. c.* 8, s. 8. The jurisdiction over indictments may be collected from the terms of the commission, which we shall here again set out, so far as it relates to the power of justices in sessions :—The first part of the commission will be found, Vol. III. p. 449. The second part is as follows :

Form of commis-
sion as to ses-
sions.

“We have also assigned you, and every two or more of you (of whom any one of you, the aforesaid A. B., C. D., &c., we will shall be one), our justices, to inquire the truth more fully, by the oath of good and lawful men of the aforesaid county, by whom the truth of the matter shall be the better known, of all and all manner of felonies, poisonings, enchantments, sorceries, arts magic, trespasses, forestallings, regratings, ingrossings, and extortions whatsoever ; and of all and singular other crimes and offences of which the justices of our peace may or ought lawfully to inquire, by whomsoever and after what manner soever in the said county done or perpetrated, or which shall happen to be there done or attempted ; and also of all those who, in the aforesaid

counties, in companies against our peace, in disturbance of our people, with armed force, have gone or rode, or hereafter shall presume to go or ride; and also of all those who have there lain in wait, or hereafter shall presume to lie in wait, to maim, or cut, or kill our people; and also of all victuallers, and all and singular other persons, who, in the abuse of weights or measures, or in selling victuals, against the form of the ordinances and statutes, or any one of them, therefore made for the common benefit of England, and our people thereof, have offended or attempted, or hereafter shall presume in the said county to offend or attempt; and also of all sheriffs, bailiffs, stewards, constables, keepers of gaols, and other officers, who, in the execution of their offices about the premises, or any of them, have unduly behaved themselves, or hereafter shall presume to behave themselves unduly, or have been or shall happen hereafter to be careless, remiss, or negligent, in our aforesaid county; and of all and singular articles and circumstances, and all other things whatsoever, that concern the premises, or any of them, by whomsoever and after what manner soever in our aforesaid county done or perpetrated, or which hereafter shall there happen to be done or attempted in what manner soever; and to inspect all indictments whatsoever so before you, or any of you, taken or to be taken, or before others, late our justices of the peace in the aforesaid county, made or taken, and not yet determined; and to make and continue processes thereupon against all and singular the persons so indicted, or who before you hereafter shall happen to be indicted, until they can be taken, surrender themselves, or be outlawed; and to hear and determine all and singular the felonies, poisonings, enchantments, sorceries, arts magic, trespasses, forestallings, regratings, ingrossings, extortions, unlawful assemblies, indictments aforesaid, and all and singular other the premises, according to the laws and statutes of England, as in the like case it has been accustomed or ought to be done; and the same offenders and every of them, for their offences by fines, ransoms, amerciaments, forfeitures, and other means, as, according to the law and custom of England, or form of the ordinances and statutes aforesaid, it has been accustomed or ought to be done to chastise and punish.

"Provided always, that if a case of difficulty upon the determination of any of the premises before you, or any two or more of you, shall happen to arise, then let judgment in no wise be given thereon before you, or any two or more of you, unless in the presence of one of our justices of the one or other bench, or of one of our justices appointed to hold the assizes in the aforesaid county.

"And therefore we command you, and every of you, that to keeping the peace, ordinances, statutes, and all and singular other the premises, you diligently apply yourselves; and that at certain days and places which you, or any such two or more of you as is aforesaid, shall appoint for these purposes, into the premises ye make inquiries; and all and singular the premises hear and determine, and perform and fulfil them in the aforesaid form, doing therein what to justice appertains, according to the law and custom of England; saving to us the amerciaments and other things to us therefrom belonging.

"And we command, by the tenor of these presents, our sheriff of W., that at certain days and places which you, or any such two or more of you as is aforesaid, shall make known to him, he cause to come before you, or such two or more of you, as aforesaid, so many and such good and lawful men of his bailiwick (as well within liberties as without), by whom the truth of the matter in the premises shall be the better known and inquired into.

"Lastly, we have assigned to you the aforesaid A. B., keeper of the rolls of our peace in our said county: and therefore you shall cause to be brought before you and your said fellows, at the days and places aforesaid, the writs, precepts, processes, and indictments, aforesaid, that they may be inspected, and, by a due course, determined, as is aforesaid."

We have also assigned you and every two or more of you]—Here beginneth the second part of the commission, or the second assignment: all the business within which assignment belongeth to the sessions of the peace. *Dalt. c. 5.*

And by this it appeareth, that two justices may hold a sessions, but that one justice cannot. *Crompt. 6, 7.*

Of whom any one of you the aforesaid A. B., C. D., &c. we will shall be one]—This clause, which gives power to two or more justices to hear and determine offences, requires that at least one of those justices be of that select number, which is commonly termed of the *quorum* (from that word in the Latin commissions, *Quorum—unum esse volumus*). For those of the *quorum* were wont to be chosen specially for their knowledge in the laws; and this was it which led the makers of several ancient statutes expressly to enact, that some learned in the laws should be put into the commission of the peace; and (to say the truth) all statutes that require the presence of the *quorum* do tacitly

Comments on the commission.

Must be two justices.

Justices of quorum.

IN WHAT
MATTERS.

Justices of quorum.

signify such a learned man. For, albeit that a discreet person (not conversant in the study of the laws) may sufficiently follow sundry particular directions concerning the service of the peace, yet when the proceedings must be by way of presentment or indictment, upon the evidence of witnesses, and oaths of jurors, and by the order of hearing and determining according to the straight rule and course of the law, it must be confessed that learning in the law is very necessary. *Lamb.* 48, 49.

26 Geo. 2, c. 27.

But learning being now greatly advanced and improved since the first institution of this office, this distinction is not of much use, but all or most of the justices are now equally assigned to be of the *quorum*; and by the 26 Geo. II. c. 27, no act, order, adjudication, warrant, indenture of apprenticeship, or other instrument done or executed by two or more justices, which doth not express that one or more of them is of the *quorum* (although the statutes respectively require that one of the justices shall be of the *quorum*), shall be impeached, set aside, or vacated, for that defect only.

7 Geo. 3, c. 21.

And by the 7 Geo. III. c. 21, in cities, boroughs, towns corporate, franchises, and liberties, which have only one justice of the *quorum*, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, done or executed by two or more justices qualified to act therein, shall be valid and effectual in law, although neither of the said justices are of the *quorum*.

4 Geo. 4, c. 27.

And now the 4 Geo. IV. c. 27, after reciting the 7 Geo. III. c. 21, "and whereas it is expedient that the provisions of the said act should be extended to such cities and other jurisdictions as have two or any other limited number of justices of the quorum qualified to act within the same:" enacts, "that, from and after the passing of this act, in all cases where the number of justices of the peace for any city, borough, town corporate, franchise, liberty, or other local jurisdiction, is limited, and any one, two, or more of such justices only are of the *quorum*, all acts, orders, adjudications, warrants, indentures of apprenticeship, or other instruments, which shall be made, done, or executed, either in or out of the general quarter sessions or petty sessions, or any adjournment thereof, by virtue of any charter or grant, or by virtue of any act of Parliament made or to be made, by any two or more justices of the peace acting within the same, though neither of the said justices be of the *quorum*, shall be valid in law, to all intents and purposes, as if the said justices had been of the *quorum*; any grant, charter, law, or custom to the contrary thereof in anywise notwithstanding."

Jury sworn.

By the oath of good and lawful men—That is, by a jury sworn.

Of all and all manner of felonies—That is, either by the common law or by statute. *Crompton* 8.

Felonies.

Felonies—Though the commission doth not mention murders and man-slaughters by express name, but only felonies generally, yet by these general words they have power to hear and determine murder and manslaughter, and also may take an indictment of *se defendendo*, contrary to the opinions of *Fitzherbert* and *Staundforde*. But though the justices have this power, yet they do not ordinarily proceed to hear and determine these offences, and rarely other offences without clergy, both because of the monition and clause in their commission, in case of difficulty to expect the presence of the justices of assize; and also because of the direction of the 1 & 2 P. & M. c. 13, which directs justices of the peace, in case of manslaughter and other felonies, to take the examination of the prisoner and the information of the fact, and put the same in writing, and then to bail the prisoner, if there be cause, and to certify the same with the bail at the next gaol delivery: and, therefore, in cases of great moment, they bind over the prosecutors, and bail the party, if bailable, to the next gaol delivery; but in smaller matters, as petit larceny, and some cases within clergy, they bind over to the sessions: but this is only in point of discretion and convenience, not because they have not jurisdiction of the crime. 2 *Hale*, 46.

So, also, an inquisition of self-murder, if the body cannot be seen, and so not inquired of by the coroner, may be taken before justices of the peace; for it is a felony, and within the extent of their commission. 1 *Hale*, 414.

(a) By a bill before Parliament, it is proposed to give all justices the like power, whether of the quorum or not.

(b) See now the 7 Geo. IV. c. 64, to the examination, Vol. II. p. 97, 98.

So also, if a person hath committed treason, though the justices have no cognizance of it as treason, yet they have cognizance of it as a felony, and as a breach of the peace; and, therefore, a justice of the peace, upon information on oath, may issue his warrant to take the traitor, and may take his examination, and commit him to prison. 1 *Hale*, 580.

High treason is not mentioned in the commission, and, therefore, the quarter sessions have no jurisdiction to try that offence, though the justices may commit the offender to take his trial before a higher tribunal. 2 *Hale*, 44; 2 *Haw. c. 8, s. 59*; *Bac. Ab. Justices of Peace, E.*; *Dirk. Sess.* 104.

They had formerly, however, the power, under some ancient statutes, of hearing and determining particular kinds of treason, and it seems doubtful whether they may not now try prisoners for clipping coin, for it may be questioned whether the 3 Hen. V. c. 7, is repealed; and Mr. *Curwood*, in his edition of *Hawkins*, recognizes that statute as still existing. See 2 *Haw. P. C.* 55; see, however, 2 *H. P. C.* 45.

But although the justices in sessions have thus jurisdiction over almost all felonies, it is not the practice for them to try any capital felonies, unless in sessions holden under charters, where the *power of life and death*, according to the peculiar expression, is specifically entrusted to the judges.

It is now the common practice to try only petty larcenies and misdemeanors in this court; and felonies of a higher nature, as murders and felonies, upon conviction of which the prisoner must pray the benefit of clergy, (a) or the benefit of the statute, are usually remitted for a more solemn trial to the assizes. 4 *Bla. Com.* 271, n. 2, 234, n. 6; 2 *Hale*, 46; 2 *Haw. c. 8, s. 57*; *Bac. Ab. Justices of the Peace, E. 2, Cro. C. C. 14*; *Dick. Sess.* 104, 5. This is the course adopted in every instance: first, on account of the clause in their commission in cases of difficulty to expect the presence of the justices of assize; and, secondly, by reason of the direction given by 7 Geo. IV. c. 64, s. 2.

The sessions, however, have jurisdiction over capital offences of this nature; and, if they do proceed to judgment, in cases of difficulty, their judgment is not void, but is effectual till reversed for real error by a superior tribunal. *Lamb*, 50; 2 *Hale*, 46. An indictment lies at the quarter sessions for lighting fires on the coast, contrary to 47 Geo. III. sess. 2, c. 66; for, though in one section "the general quarter sessions" is omitted, yet it being in other parts of the act, the omission was merely a mistake. 4 *M. & S.* 71.

Poisonings].—The word in the Latin commissions was *veneficia*; and before the 9 Geo. II. c. 5, which abolisheth witchcraft, was in the English translations rendered witchcrafts.

Inchantments, Sorceries, Arts, Magic].—These also are abolished by the said statute, s. 3, which enacts, that no prosecution shall thereafter be commenced against any person for witchcraft, sorcery, enchantment, or conjuration.

And, from the words continuing in the commission when the crime itself is abolished, we may observe the averseness in the superior courts from altering ancient forms.

Trespasses].—This is founded on the 34 Edw. III. c. 1, which enacts that the justices assigned shall have power to restrain the offenders, rioters, and all other barrators, and to chastise them according to their trespass or offence. The word for trespasses, in the old Latin commissions, is *transgressiones*.

And upon this Mr. *Hawkins* observes, that the word trespass is of very general extent, and in a large sense not only comprehends all inferior offences, which are properly and directly against the peace, as assaults and batteries, and such like, but also all others which are so only by construction, as all breaches of the law in general are said to be. Yet it hath been of late settled, that justices of the peace have no jurisdiction over forgery or perjury at the common law; the principal reason of which resolution, he says, as he apprehended, was, that inasmuch as the chief end of the institution of the office of these justices was for the preservation of the peace against personal wrongs and open violence, and the word trespass, in its most proper and natural sense, is taken for such kind of injuries, it shall be understood in that sense only in the said statute and commission, or at the most to extend to such other offences

Treason.

Not the practice to try capital felonies.

But they have the power.

Poisonings.

Witchcraft, &c.

Trespasses.

All inferior offences.

Forgery or perjury at common law not triable at sessions.

(a) Now abolished, see *Clergy, Benefit of*, Vol. I.

IN WHAT
MATTERS.

only as have a direct and immediate tendency to cause such breaches of the peace, as libels, and such like, which on this account have been adjudged indictable before justices of the peace. 2 *Haw. c. 8, s. 38*.

These exceptions, however, alluded to by Mr. *Hawkins*, are now considered to rest more upon authority than principle. 2 *East, 15, 18, 20, post, 474*.

Perjury by statute.

The particular provisions of the 5 *Eliz. c. 9*, are such, that if the offence of perjury be indicted under that statute (which rarely, if ever, happens), the justices have jurisdiction over it by the express words of the statute. 1 *Salk. 406*; 4 *Bla. Com. 271, n., 11*. See *ante, Perjury*.

Conspiracies.

The term *trespasses* in the commission, subject to these exceptions, not only includes direct breaches of the peace, but also all such offences as have a tendency thereto, and, on that ground, conspiracies have been holden to be cognizable by the sessions, not as actual breaches of the peace, but as tending to produce them. 2 *East, 22, 23*; 1 *Bla. Rep. 368*; 3 *Burr. 1320*; *Haw. b. 2, c. 8, s. 63*; *Dick. Sess. 105*. And, for the same reason, to solicit a servant to steal his master's goods, is a misdemeanor, though it be not charged in the indictment that the servant stole the goods, nor that any other act was done, except the soliciting and inciting; and such offence is indictable at the sessions, having a tendency to a breach of the peace. *R. v. Higgins, 2 East, 5, post, 474*.

Cheats.

So they have a jurisdiction over cheats in general. *R. v. Brayne, and R. v. Beale, 1 East, 183, n.*

Forgery.

Though they cannot take cognizance of forgery as a cheat; and therefore, where objections were taken to an indictment, for having placed or forged the letters R. E. at the bottom of a certain schedule, that the substantial charge, if any, was the commission of a forgery, an offence which the quarter sessions have no jurisdiction to try: first, because, in cases of misdemeanor, they can only try breaches of the peace, or such acts as have a manifest tendency thereto, and the word "trespasses," in the commission of the peace (the only word under which the jurisdiction could be sustained, if at all), has always had that construction; and, secondly, that whenever the sessions have exercised jurisdiction over any other description of misdemeanor, it has, by virtue of particular statutes, given them such jurisdiction in express terms: it was held, that as in effect it was an indictment for forgery, it was a case in which a court of general quarter sessions of the peace for a county had no jurisdiction. *R. v. Gibbs, 1 East, 173*.

Gaming.

Nor can they determine an indictment for gaming, on the 18 *Geo. II. R. v. Frederick, 2 Ld. Ken. 116*.

Assaults,
Barratry,
Libels, &c.

But their jurisdiction extends to assaults and batteries, *Haw. b. 2, c. 8, s. 63*; *Bac. Ab. Justices of the Peace, E. 3*; barratry, 2 *Saun. 308, n.*; 2 *Haw. c. 8, s. 65*; *Bac. Ab. Justices of the Peace, E. 3*; libels, 3 *Salk. 194*; 1 *Lev. 139*; 2 *Haw. c. 8, s. 64*; night-walking, and haunting of bawdy-houses, 2 *Haw. c. 8, s. 64*.

Forestallings, &c.

Forestallings, Regrations, Engrossings—Over these offences, the justices in sessions had jurisdiction given to them by the 5 & 6 *Edw. VI. c. 14*, which is now repealed; but the same still continue offences punishable by indictment at the common law.

Extortions.

Extortions—The intent of this word is, to inquire of those who have done excessive wrongs; for wrong done by any one is properly trespass, but excessive wrong done by any one is called extortion; and this is more properly in officers, as sheriffs, mayors, bailiffs, escheators, and other officers whatsoever (as well spiritual as temporal), who, by colour of their office, have done great oppression and excessive wrong to the king's subjects, in taking excessive rewards or fees for doing their offices. *Crompt. 8*.

The justices have no express power given to them over this offence by any statute; upon which Mr. *Hawkins* observes, that justices of the peace have jurisdiction of all inferior crimes within their commission, whether such crimes be mentioned in any statute concerning them or not; for that all such crimes are either directly or at least by consequence and judgment of law against the peace; and upon this ground principally, he says, as he apprehended, it was lately resolved, that they may take an indictment of extortion. 2 *Haw. c. 8, s. 39*.

And of all and singular other crimes and offences of which the justices of our peace may or ought lawfully to inquire—Which general words seem to include the vast number of offences, over which they have a jurisdiction given them by many statutes, and which are not particularly mentioned in the commission.

IN WHAT
MATTERS.

Other crimes, &c.

And also all of those who in Companies against our Peace in Disturbance of our People with armed force have gone or rode—By these words they are to inquire of riots, routs, and all unlawful assemblies. *Crompt. 8.*

Riots, &c.

Weights or Measures—This clause was first established by the 34 Edw. III. c. 5. And they have further power given herein by several subsequent statutes, all which statutes must be strictly pursued in relation to the several offences.

Weights and
measures.

Selling Victuals—Over this they have a jurisdiction given to them by the 2 & 3 Edw. VI. c. 15, intituled, "The Bill of Conspiracies of Victuallers and Craftsmen."

Selling victuals.

And also of all Sheriffs, Bailiffs, Stewards, Constables, Keepers of Gaols, and other Officers, who in the execution of their Offices have unduly behaved Themselves—This clause is as ancient as the 4 Edw. III. c. 2, on which it is founded.

Officers misbe-
having them-
selves.

And it hath been suffered to remain in the commission, not as of any necessity at all (since it is incident to every court of record to do correction upon whatsoever officers and ministers do serve them), but only for the plainer declaration of the power of these justices in that behalf, and for the more assured terrifying of such as shall, either of contempt or negligence, do that which is amiss. *Lamb. 49; see R. v. Jaram, 7 D. & R. 163, post, 477.*

And to inspect all Indictments so before you taken—But they cannot proceed upon indictments taken before coroners, or justices of oyer and terminer or gaol delivery, but on indictments taken before the sheriff in his tourn they may proceed. *Hale's Sum. 168.*

Indictments laid
before others.

Or before other our late Justices—This is founded on the 11 Hen. VI. c. 6, which enacts that no indictment, plea, suit, or process, shall be discontinued by a new commission; but the justices in the new commission, after they shall have the records of the same pleas and processes before them, shall have power to continue the said pleas and processes, and to hear and finally determine the same, as the former justices might have done.

And to make and continue Processes—This is by *venire, distringas, capias*, or *exigent*, as the case shall be. And it differs from a warrant, in that a warrant is only to attach and convene the party before indictment, and may be either in the name of the king or of the justice; but the process issues after indictment, and must be in the name of the king only. *Dalt. c. 193.*

Processes.

Until they can be Taken, Surrender Themselves, or be Outlawed—For the process is sent out to this end, that either the party shall come in to answer and to be justified by the law; or else that he shall, for his contumacy, be deprived of the benefit of the law. *Lamb. 521.*

Party not ap-
pearing, &c.

Or be Outlawed—It is observable that the power of the justices stops here, and goes no further; so that they cannot make out a *capias utlagatum*, but the outlawry must be certified into the King's Bench. *Lamb. 521; 2 Hale, 52.*

Outlawry.

But by 12 *Rcp. 103*, they that have power to award process of outlawry, have also a power to award a *capias utlagatum*, as incident to their authority and jurisdiction.

Hear and Determine—This power was first given to them by the 18 Ed. III. st. 2, c. 2, and afterwards confirmed and enlarged by divers other statutes.

Power to hear
and determine.

Yet this clause doth not in propriety make the justices of the peace justices of oyer and terminer, because that is a distinct commission; and, therefore, a statute, limiting an offence to be heard and determined before justices of oyer and terminer, gives not the power therein to justices of the peace. *Hale's Sum. 165, post, 474.*

How far a court
of oyer and ter-
miner.

And thereupon, it is said, that although they have power to hear and determine felonies, yet they cannot deliver a person suspected thereof by proclamation (as justices of gaol delivery may) until an inquisition taken; but if an

IN WHAT
MATTERS.

inquisition be taken, and an *ignoramus* found, they may deliver him, as it seemeth. 2 *Hale*, 46, 47.

Likewise, although commissioners of oyer and terminer may indict and try at the same sessions, yet it hath been ruled otherwise in cases of justices of the peace, unless by consent: but certainly constant usage and learned opinion must give that exposition upon those resolutions, that it must extend only to popular actions or indictments for misdemeanors, and not to cases of felony. 2 *Hale*, 48.

Power to fine,
&c., and punish.

By *Fines, Ransoms, Amerciaments, Forfeitures, and other Means, to chastise and punish*—Hereby the justices are now armed with far more ample authority and power than the ancient conservators of the peace were; for they had no power to convene the offender before them, nor to examine, hear, or determine the cause, nor to punish, except in some few cases, as mentioned before. *Dalt.* c. 6.

But the justices may not award any recompense to the party wronged, otherwise than by persuasion. *Dalt.* c. 5.

Nevertheless, these words are inserted, not as of necessity (for the punishment of all offenders is implied in the word *determine*), but for the plainer declaration of the justices' power, and for the more assured terrifying of offenders. *Lamb.* 49.

In difficult cases
not to give judgment.

If a Case of Difficulty shall happen to arise—That is, a difficulty in point of law. *Cromp.* 6; *vide post*, 480.

Then let Judgment in nowise be Given—But yet, if they list to proceed without the judge's advice, their judgment is not void: but it standeth good and effectual, until it be reversed by a superior court. *Lamb.* 50.

Days of holding
sessions.

At certain Days and Places—That is, when they hold their sessions, which they are empowered and required to do by several statutes.

Custos rotulorum

Lastly, we have Assigned you, the aforesaid A. B., Keeper of the Rolls—This is in pursuance of the 37 Hen. VIII. c. 1, which enacts, that the lord chancellor shall, by commission, assign such person to be *custos rotulorum*, as the king shall by writing, under his hand, appoint. See *ante*, *Custos Rotulorum*, Vol. I.

General observations.

It seems to be now clear that justices of the peace may try offences, though created by statute since the institution of their office, unless there be some special direction that the offence shall be heard and determined before another tribunal. (a)

Where, indeed, a statute limits an offence to be tried before justices of oyer and terminer, the sessions cannot try it; for, though justices of the peace are authorized to hear and determine, they are not what the law intends by justices of oyer and terminer, as there is a distinct commission of that name. 1 *Hale*, 165. Where, however, a statute creates a misdemeanor, and directs that the offender shall be committed unto the next court of oyer and terminer, great session, or gaol delivery, and, in case of indictment found, shall plead, and be tried without traverse, he may be prosecuted at the court of quarter sessions. *The King v. Cock*, 4 *M. & S.* 71. In the result, it appears that the sessions have power to try all indictable offences, whether by common law or statute, with the exception of treason, misprision of treason, *præmunire*, forgery, and perjury, at common law; and the two last exceptions are not capable of being referred to any principle, as the reason assigned, that they do not directly tend to produce breaches of the peace, would equally apply to many other offences over which the sessions have undoubted jurisdiction. In a case where a question was raised, whether the sessions had power to try an indictment for a solicitation of a party to steal (b)—Lord *Kenyon* said, "I am clearly of opinion, that it is indictable at the quarter sessions, as falling in with that

(a) See the *King v. Cock*, 4 *M. & S.* 71. The contrary is laid down in some of the books; but the principle of this decision seems conclusive on the subject.

(b) The *King v. Higgins*, 2 *East's R.* 18. To this exception the case of *usury*

should be added, according to the *Queen v. Smith*, 2 *Ld. Raym.* 1144; but it is not now usual to proceed criminally for usury; and the principle of the modern cases is clearly at variance with the old decision.

Usury.

class of offences which, being violations of the law of the land, have a tendency, as has been said, to a breach of the peace, and are, therefore, cognizable by that jurisdiction. To this general rule there are indeed two exceptions—forgery and perjury: why excepted, I know not; but, having been expressly so adjudged, I will not break through the rules of law. No other exceptions, however, have been allowed; and, therefore, this falls within the general rule." *Talf. Dick. Sess. 89.*

IN WHAT
MATTERS.

(2) CIVIL JURISDICTION]—The *civil* jurisdiction of the court of quarter-sessions may be said to consist of that part of their business which is entirely submitted to the judgment of the court, without the intervention of the jury. This, it may be seen, is noticed slightly in the commission: but by far the greater part of the civil business of the sessions comes before the justices as a court of appeal deriving their authority from various statutes. This appellant jurisdiction extends over penal convictions, orders of justices, and matters connected with the administration of the poor laws, the vagrant laws, and the highway acts; and is discussed, in its various branches, through the titles of this work. On the subject of appeal itself, generally one of the most difficult and important on which the sessions are required to determine, full information will be found under title *Appeal*, Vol. I.

(2) Civil Jurisdiction.

Appellant.

Besides this appellant jurisdiction, the sessions have, in some matters, an original jurisdiction. They have, in general, an original jurisdiction to do whatever may be done by two magistrates, except where the statute empowering the magistrate to act gives an appeal to the sessions.

Original.

This jurisdiction is most usually exercised in cases of apprenticeship, in the allowance of articles of the peace, and in the disposal of vagrants committed to the sessions for punishment. Every information regarding these matters will be found under their respective titles.

In this place, it will only be necessary to give some cases illustrative of the general nature of this civil jurisdiction.

Where authority is given to two justices to do any act, the sessions may do it in all cases, except where appeal is directed to the sessions. *Per Holt, C. J., 1 Ld. Raym. 426.*

The sessions may do what two justices may.

But the sessions cannot suppress a licensed alehouse, unless for disorder. *R. v. Randall, 2 Salk. 470.*

A justice cannot act at sessions, where a matter which concerns any office he may hold comes in question. This was decided in the case of *Foxham* tithing, in the county of *Wilts.* 2 *Salk.* 607. A justice of the peace was surveyor of the highways, and a matter which concerned his office coming in question at the sessions, he joined in making the order, and his name was put in the caption. By *Holt, C. J.*—"It ought not to be; as, if an action be brought by my Lord Chief-Justice *Trevor* in the Court of Common Pleas, it must be before *Edward Neville*, Knight, and his associates, and not before *Thomas Trevor, &c.*;" and it was quashed.

Justice acting in a matter concerning himself.

A justice of the peace who is a rated inhabitant of a parish, cannot vote at the sessions, either upon the determination of an appeal against the accounts of the overseers of his parish, or upon the propriety of granting a case for the opinion of the Court of King's Bench. *R. v. Gudderidge, 8 D. & R. 217.* See further, *Justices*, Vol. III. p. 472.

The court cannot impose more than one fine for non-repair of a bridge. *R. v. Machynlleth, 4 B. & A. 469.*

Fine for non-repair.

The sessions may proceed to outlawry in cases of indictments found before them, and that by the common law; and in cases of popular actions, by the 21 Jac. c. 4. But they cannot issue a *capias utlagatum*, but must return the record of the outlawry into the King's Bench, and there process of *capias utlagatum* shall issue. 2 *Hale, 52; Lamb. 521; Dalt. c. 193, p. 473.*

Whether they may issue a *capias utlagatum*.

But they that have power to award process of outlawry have also a power to award a *capias utlagatum*, as incident to their authority and jurisdiction. 12 *Rep. 103.*

The sessions cannot award an attachment for contempt in not complying

IN WHAT
MATTERS.

Whether they may award an attachment.

Need not give their reasons.

Rule of practice not to control a statute.

County stock.

County bridge.

Clerk of peace, see of, &c.

Rates.

Overseers' accounts, &c.

Highways.

Bastards.

Poor-rate.

Apprentice.

Disenters.

Navigable river-rate.

with their orders; but the ordinary and proper method is by indictment. *R. v. Bartlett*; 2 *Sess. Ca.* 176. See *ante*, *Process*.

The sessions are not obliged to give any reason of their judgment in the orders they make, any more than other of the courts of law. 2 *Salk.* 607, *post*, 478.

A rule of practice at the sessions will not control the express words of an act of Parliament. *R. v. Just. of Lincolnshire*, 5 *D. & R.* 347, *S. C.*; 3 *B. & C.* 548.

The quarter sessions may apply the county stock to contest the legality of a fine imposed on the county for not repairing its gaol. *R. v. Essex, Nolan*, 56.

Justices at sessions appointed a committee of twelve magistrates to inspect the state of a county bridge and to make any new contract for repairing or rebuilding, to be executed by the clerk of the peace on behalf of the county. Afterwards they made an order, adopting a contract for rebuilding proposed by the committee, and directed it to be prepared by the clerk of the peace, which contract having afterwards been executed by the clerk, the justices at a subsequent sessions confirmed all the resolutions of the committee, and ordered the clerk to perform their directions in respect to the contract.—The acts of the committee so confirmed are the acts of the sessions, and the authority given to the committee and exercised by them, is not such a delegation of power by the sessions as will invalidate their orders. *R. v. Just. of Glamorganshire*, 2 *T. R.* 279; *Nolan*, 249, *S. C.*

The sessions are not authorized to order the payment by the bridgemaster to the clerk of the peace of a per-centage on all money raised for the repair of bridges in a particular district, in lieu of all his fees for indictments, presentments, &c., for bridges within it; although such per-centage was claimed as an ancient fee, and had been paid without dispute for a long period of time. *R. v. Houldgrave*, 1 *B. & A.* 312.

The sessions have no jurisdiction, under 55 *Geo. III. c. 51, s. 16*, to make a prospective order for a compensation thereafter to be made to the clerk of the peace; and, therefore, where a county treasurer, in obedience to such an order, made the payment, and that payment was afterwards, by an order of sessions, allowed in his accounts, the Court of King's Bench quashed so much of the order of sessions as allowed that item. *R. v. G. Williams, Esq.*, 3 *B. & A.* 215.

In the same case it was made a question whether, under the 55 *Geo. III. c. 51, s. 16*, the sessions have a power to make any compensation to the clerk of the peace.

Justices, upon appeal from a rate to the quarter sessions, cannot make a new, but only quash the subsisting rate. *R. v. St. Andrew's, Holborn*, 3 *Burr.* 1458.

The sessions have no original jurisdiction over overseers' accounts. *R. v. Portsmouth*, 1 *W. Bla.* 395.

So, they have no jurisdiction to make an original order for the late overseers of the poor to pay money to their successors. *R. v. Whitear*, 3 *Burr.* 1365.

So, orders upon surveyors of highways to pass their accounts and pay over monies cannot be made originally by the general quarter sessions. *R. v. Hartshorn*, 2 *Burr.* 745.

An original order of bastardy may be made at the quarter sessions. *R. v. Greaves*, 2 *Doug.* 632.

Where a person is overcharged in a poor-rate, the sessions may relieve him on appeal, and amend the rate by lessening the sum assessed on him under the 17 *Geo. II. c. 38*. *R. v. Cheshunt*, 2 *T. R.* 623.

And the sessions may order an apprentice to be discharged and money to be returned, though bound to a trade not mentioned in the act; but the order must state that the defendant appeared, or was summoned and made default; and that the master had received money with the apprentice. *R. v. Aimes*, 1 *Bott's P. L.* 574.

The court of sessions is merely ministerial, as to registering meeting-houses under the Act of Toleration. *R. v. Just. of Derbyshire*, 1 *W. Bla.* 606.

By the 10 & 11 *Wil. 3, c. 8*, the proprietors of navigation shares in the river

Tone are created a corporation, with certain funds, and directed to keep an account of their receipts and disbursements, which shall every year be examined, stated, corrected, and allowed by the Bishop of Bath and Wells, and the justices of the peace for the county of Somerset, or any five or more, at their first general quarter sessions after a certain day, at which time they are to direct a distribution of the surplus profits, if any: held, that the sessions in one year have no authority to revise or correct any errors in the accounts upon which a balance was struck and allowed at the sessions in any preceding year. *R. v. River Tone Conservators*, 8 T. R. 286.

A charter of Car. II. gave to the lord of an ancient liberty the execution of all writs, processes, and precepts of his majesty within the liberty, and contained a *non intromittant* clause, restraining the sheriff from entering, "unless it touched his majesty or his crown, and unless upon the default of the bailiffs and officers of the lord:" held, that by virtue of this charter, and the provisions of the statute 27 Hen. VIII. c. 24, s. 7, the lord's bailiff was bound to obey the sheriff's precept for returning jurors from the liberty to the quarter sessions; and that for disobedience to such precept, the justices at sessions had jurisdiction to impose a fine upon the bailiff. *R. v. Joram*, 7 D. & R. 163; 4 B. & C. 692, S. C.

The consent of parties that the sessions shall delegate their authority, concludes such parties, and gives validity to all acts of the sessions in consequence of such consent. *R. v. Just. of Northampton, Cald.* 30, S. P.; *R. v. Just. of Devonshire, Cald.* 32.

The principle that every court has a power to fine for contempt, was clearly established in the case of the *King v. Davidson*, 4 B. & A. 329. "No lawyer," said Abbott, C. J., in delivering his opinion on this case, "can doubt the power of every court to fine for contempt." And in the same case, Bayley, J., said—"Of the power of a judge to fine for contempt of court, I have not the least doubt; and I am of opinion, also, that the judge alone is competent to determine whether what is done be or be not a contempt; and that neither this court, nor any other co-ordinate court, has a right to examine the question, whether his discretion, in that respect, was fitly and properly exercised." Best, J., also there said, "No man who pretends to any knowledge of the law can doubt, that a judge of a court of record has authority to fine or imprison for any contempt committed in the face of the court. From the earliest period of our history this authority has been exercised. The year-books record instances of such commitments, and there are similar instances in other books of reports. At those times when our ancestors have abolished or restrained improper authorities, they have not touched this, because they found it essential to the due administration of justice. A court of *nisi prius* is a court of record, and the judge presiding in it is, therefore, invested with the power of committing for contempt." See also the case of *R. v. Clement*, 4 B. & A. 218; *Examination*, Vol. II.

All the cases on this subject with respect to the power of courts of record to fine and imprison for contempt, are collected together very ably by Mr. Justice Wilmot, with a view to a judicial opinion in the *King v. Almon*, *Wilmot's Notes*, 243.

A court of gaol delivery has the power to make an order to prohibit the publication of the proceedings pending a trial likely to continue for several successive days, and to punish disobedience to such order by fine. *King v. Clement*, 4 B. & A. 218.

It seemeth certain, that the sessions have no authority to amerce any justice for his non-attendance at the sessions, as the judges of assize may for the absence of any such justice at the gaol delivery; for it is a general rule, that *inter pares non est potestas*, it being reasonable rather to refer the punishment of persons in a judicial office, in relation to their behaviour in such office, to other judges of a superior station, than to those of the same rank with themselves. And therefore it seems to have been holden, that if a justice at the sessions, who is not of the *quorum*, shall use such expressions towards another

IN WHAT
MATTERS.

Bailiff not executing precept.

Sessions delegating their authority.

Power to fine for contempt.

Power to prohibit publication of proceedings.

How far the sessions hath power over its own members.

THEIR JUDGMENTS.

who is of the *quorum*, for which, if he were a private person, he might be committed or bound to his good behaviour, yet the sessions hath no authority to commit him, or to bind him to his good behaviour; and yet it seems to be agreed, that if a justice give just cause to any person to demand the surety of the peace against him, he may be compelled by any other justice to find such security; for the public peace requires an immediate remedy in all such cases. 2 *Haw. c. 8, s. 46.*

(2.) Their Judgments. (a)

Need not give reasons for.

The sessions are not compellable to give any reason for their judgment in the order they make. 2 *Salk. 607.*

Where a reason is assigned as the foundation of a judgment, all presumption or intention that the court went upon better grounds, is excluded. *R. v. Upton Gray, Cald. 308.*

It is questionable whether, when the sessions state facts fully and particularly, from whence they infer fraud, the Court of King's Bench can draw their own conclusion from those facts, without having regard to the adjudication of the court of sessions. *R. v. Woodland, 1 T. R. 261.*

Intendment against.

The court will not intend any thing to vitiate an order of sessions. *R. v. Higher Walton, Burr, S. C. 162.*

Amendment of.

By *Holt, C. J.*, the sessions is all as one day, and the justices may alter their judgments at any time, whilst it continues. 2 *Salk. 606*; 1 *Stra. 383.* See Amendment, Vol. I.

Mistake in.

A wrong entry of judgment by mistake, and not corrected during the sessions, is no ground for a re-hearing. And where one judgment is entered at the sessions for another, the King's Bench cannot interfere, unless the mistake is apparent on the record. *R. v. Justices of Leicestershire, 1 M. & S. 442.*

How far conclusive, &c.

We have already noticed the effect of a judgment of sessions, as to how far it is conclusive on the parties, &c. See Evidence, Vol. II. p. 50.

The Court of King's Bench will take cognizance of a case reserved by the sessions accompanying the proceedings so removed; and where the sessions, upon proof that the appellant had received from the clerk of the convicting magistrates, a copy of his conviction, signed and sealed by such justices, purporting on the face of it to have been made upon the information of B. and C. (though such copy was drawn up on the back of the paper which contained the information of A., the true informer, B. and C. being only the witnesses who had been examined in support of the charge, and though the same justices had returned to the sessions, to be filed of record, a regular conviction of the same date, signed and sealed by them, on parchment, stating it to have been made on the information of A., and supported by the evidence of B. and C., according to the truth of the case), had quashed the latter conviction so returned by the justices, as being at variance with the minutes of the conviction delivered to the appellant, without entering into the merits of the case, upon a preliminary objection taken by the appellant, this court quashed the order of sessions generally; thereby setting up again the regular conviction, considering that the variance arose from the mere mistake and irregularity of the justice's clerk, and that the appellant was not really surprised by it, but had waived his appeal on the merits. *R. v. Allen, 15 East, 333.*

When the sessions adjudge a place to be a vill by reputation, as a substantive fact, the Court of King's Bench is precluded from going into the question, notwithstanding the sessions state all the evidence particularly on which they formed their opinion. *R. v. Ronton Abbey, 2 T. R. 207.*

If the sessions draw a conclusion of fact, that the taking of a tenement is fraudulent, or that it does not amount to 10*l.* per annum, it is decisive in the Court of King's Bench, though they state all the facts, and refer the consideration of those questions to this court. *R. v. Lamwinnio, 4 T. R. 473*; *Nolan, 19, S. C.*

Though the sessions find that certain persons in the township were possessed of visible stocks in trade there, and were personally liable to be rated in respect

(a) As to judgments in general, see title Judgment, Vol. III.

thereof, if by law such property were liable to be rated; yet, if they also state that they were not satisfied from the evidence offered before them that there was any surplus profit on such stocks, by which they could amend a rate which omitted them, that concludes the question. *R. v. Macdonald*, 12 East, 324.

In *R. v. Harding*, 2 Sulk. 477, it is delivered as the resolution of the court, that a judge of *nisi prius*, by consent of parties, may make a rule to refer a cause; but the sessions cannot do so, though by consent. They may refer a thing to another to examine, and make report to them for their determination, but cannot refer a thing to be determined by the other.

But in *R. v. the Justs. of Northampton*, Cald. 30, on a motion to quash an order of sessions quashing a poor-rate, on the ground that the rate was by the sessions referred to two justices out of sessions, and that the sessions afterwards adopted their opinion, without exercising their own judgment, *Ld. Mansfield* said,—“If they did this of their own accord, without the consent of the parties, it cannot be supported: they are not warranted to delegate their authority: but, if they acted with the consent of the parties, I think they have done very right; and we will never suffer the party who consented to the reference to come here to set it aside; and I think it sufficient if the attorneys consented, and attended at the reference.” The case was sent back to the sessions to certify whether it was referred by consent; and afterwards the order was affirmed. See, further, *ante*, 467; *Stuart*, Vol. I.

A bill of exceptions will not lie to the justices in sessions on an appeal; for, as observed by *Ld. Hardwicke*, in the common case of bills of exceptions tendered to the judges, the jury alone are the proper persons who would be to decide whether they believe the evidence or not; the judges have nothing to do with the belief of the evidence; they are not to determine on its credibility, but on the consequences of law arising from it. But the justices at sessions are judges of the fact as well as law; they are jury as well as judges; it is in their breast only whether to believe or disbelieve the evidence; and who is to take upon himself to say what portion of the evidence they do believe, and what they do not? Suppose six of the justices believe the evidence, and two of them do not believe it, are the two to conclude the six as to the belief of the fact? When the justices specially state the fact, it is the act of the whole court; but here only two out of the whole number have sealed the bill of exceptions. *R. v. Preston*, Burr. S. C. 77.

In the case of *Thornby v. Fleetwood*, F., 6 G., which was upon a writ of error in the King's Bench, brought against a judgment in the Common Pleas, the court was equally divided, whereupon it was considered what was further to be done. And after several expedients which were judged impracticable, the parties at last consented that the judgment should be affirmed, so that the case thereupon might come before the House of Lords for a final determination; and *Pratt*, C. J., delivered the opinion of the court thus:—“The plaintiffs in error move us for an affirmance; as to that, you see the court is divided, and there can be no rule but in this case, because the party against whom it is to be affirmed is desirous and willing that it should be so. We are all of opinion, that upon his consent the judgment of the Common Pleas may be affirmed. But, lest this be brought in future ages as a precedent of an affirmance upon a division, we direct the officer to make the rule special in this case, on recital of the difference in opinion amongst the judges, and the consent of the party.” 1 *Str.* 383, 384.

Or, if the court shall be still divided, as so it may happen in small counties or towns corporate, where the justices are but few, or where the number is reduced by reason of the rest being interested, in order that the case may not be hung up for ever, it may be advisable (according to the course prescribed in the case of *Thornby v. Fleetwood*, above mentioned) for the court, by consent of the parties, to affirm or quash, and thereupon state the case especially, to be laid before the judges of assize, or rather before the Court of King's Bench, for the judges of assize are oftentimes sufficiently employed with the proper business of the circuit, without being importuned with these matters of inferior consequence.

THEIR JUDGMENTS.

Whether the sessions can refer a matter.

Bill of exceptions will not lie.

Where court divided in opinion.

STATING A
SPECIAL CASE.

Where, upon an appeal against an order of removal, the justices at sessions were equally divided, and made an order that the hearing of the appeal should be adjourned, one of the justices who voted in favour of the respondent parish, being a rated inhabitant of that parish, an application for a *certiorari* to remove the order of sessions, in order that it might be quashed, was refused, on the ground that, even if the order of sessions was erroneous, the court had no jurisdiction to review it. This was decided in the case of the *King v. the Justices of Monmouthshire*, 8 B. & C. 139. "The late decisions," said *Ld. Tenterden*, in delivering the opinion of the court on this question, "establish, that we cannot assume to ourselves the jurisdiction of a court of error; and revise the judgments of the court of quarter sessions. Here a judgment has been pronounced by the court of quarter sessions, relating to a subject-matter over which that court had jurisdiction; and, assuming that judgment to be erroneous, I think we have not jurisdiction, as a court of error, to review it."

(3.) Of Stating a Special Case.

Reference to
judge of assize.

Mr. Dickenson observes, that a reference to the judge of assize, either of the whole case, or of some point of legal difficulty involved in it, used formerly to be a common practice, but is, of late, fallen much into disuse. For this change many reasons might be adduced, but they are unnecessary here. If any particular circumstances should make this mode eligible, the right still continues; but it has generally given place to a more eligible one, which is that of stating a special case for the determination of the Court of King's Bench. *Dick. Sessions*, 627.

Special case.

The sessions do not always refer the whole case to the judge of assize: sometimes they refer only a particular point, and reserve the final determination of the whole matter to themselves. *R. v. Tedford*, 2 B. S. C. 57; 2 *Sess. Cas.* 243.

When the special case is granted, the object is carried into effect by the counsel agreeing to a statement of facts, which are usually corrected and settled by a reference to the chairman's notes. *Id.*

The case so settled, is to be signed by the junior counsel on each side. If no counsel are employed, or if they cannot agree upon a case, even with the assistance of the chairman, the latter may, with the concurrence of a majority of the justices on the bench, state and sign a special case himself. *Id.*

Form of the case.

There is no specific form or precedent, according to which a special case must be drawn; but, nevertheless, there are certain rules to be collected from a long succession of determinations, which are, in substance, as follow:—The justices, with regard to the civil business of the court, by the summary jurisdiction which is given to them, it has been observed, are placed in the situation of jurors, and judges, conjointly. They are to elicit the facts from the evidence, as jurors would do, and they are to judge of the law arising out of those facts in the common course, if they think fit. Out of this position arise two conclusions: viz. first, that they are not compellable to grant a special case, if they entertain no doubt (a) whatever of the law: and therefore, though it is certainly, in point of candour, right to comply with the request of the litigant parties by doing so, where any reasonable doubt on the subject is suggested, they will best consult the interests of the public by refusing it where they believe the application to arise out of mere obstinacy, or a spirit of litigation; and should always refuse it, unless they entertain serious doubts. *Per Bayley J.*, in the *King v. Burbach*, 1 M. & S. 376. Secondly, that their authority to judge of the law is the only one which in these cases they reserve for the superior court; whence it follows, that the facts make no part of the subject-matter on which the court

The law of the
case.

The facts.

(a) "The magistrates ought not to be induced to send up cases for our opinion, if they have no doubt upon the question in their own minds, in order to

avoid incurring unnecessary expenses." *Per Bailey, J.*, *R. v. Inhab. of Darley Abbey*, 14 East, 285.

above are to exercise their discretion, and therefore, having been found by the justices, they must be specifically stated in the case, and not the evidence from which they were deduced. *Burr.* 120. S. C. A very few examples may suffice for illustration. On an appeal respecting a pauper's settlement, where the question depends on an equivocal hiring, or a doubtful service for a year, the fact is to be deduced from the evidence, such as it may be, one way or the other, by the justices; and not the evidence, from which they draw their conclusion, stated. *R. v. Hobbear*, 1 E. R. 73. So, whether a master gave a particular consent to his apprentice to serve a third person, is a matter of fact, which, let it rest on testimony ever so ambiguous, must be found, and not left doubtful on the face of the statement. *Burr.* 682. S. C. So, in a question of settlement by residing on an estate, the session must state the interest which the pauper took, whether he came in by descent or by purchase; and if the latter, the price of such purchase, that it may appear on the face of the statement, that it was such a purchase as will confer a settlement. *R. v. Warblington*, T. R. 241.

STATING A
SPECIAL CASE.

Fraud is a fact. This, therefore, like all other matters of fact, if it make any part of the case, to influence the opinion of the justices, must be specifically found by them, and stated accordingly; for it is not enough to state such evidence, though clearly leading to the most palpable conclusion of fraud, for the court above to draw such conclusion. *Per Buller, J.*, in the *King v. Fillongley*, 1 T. R. 461. In some cases, the evidence and the conclusion have both been stated, to which there is no objection in point of form; but it leads to an obvious inconvenience in point of practice, that if the court above should differ from the sessions as to the conclusion, they could not regularly interfere; and that, in appearance, an opinion is asked, which the court cannot judicially give. *Burr.* S. C. 57, 171; *Talf. Dick. Sess.* 627.

Fraud.

Facts must be
specifically found
and stated.

If the special case be insufficient, the court will send it back to be restated, upon which the sessions should proceed as if it were an entirely new business; for it is in the nature of a new trial: wherefore they have no right to take any notice of what passed before. *R. v. Page*, 2 Bott, 743.

Insufficient case
sent back, and
proceedings on.

When the case, however, is only sent back to ascertain some particular fact, the proof may be confined to that, and it may be amended by new evidence. *R. v. Hitcham*, *Burr.* S. C. 489.

Or the case may be sent back to explain some ambiguity of expression, or omission of an inference, which the justices may supply without hearing witnesses; for the sessions, in order to re-state a case, are not necessarily obliged to hear new evidence. *R. v. Bray*, 2 Bott, 743; *Burr.* S. C. 684.

But the court will not send a case down to the sessions to be re-stated on a mere formal objection, if enough appear to enable them to decide according to the merits of the case, and when the only possible result of sending back the case would be to produce delay and expense. *R. v. Inh. of Middlesox*, 2 T. R. 41.

Nor on the affidavit of a person that the clerk of the peace did not state his evidence truly. *R. v. Burgh*, 2 Bott, 747.

The sessions cannot be compelled to state a special case. Nor will the court permit them to raise a general question, by omitting to state particular circumstances belonging to the case. But if the sessions order a special case to be made, and before it is settled the sessions is inadvertently adjourned, the court of King's Bench will grant a *mandamus* to compel them to proceed in the appeal. *R. v. Oulton*, 2 Bott, 73; *R. v. Francis Hill*, 1 Bott, 280; *R. v. Justs. of Sussex*, 2 Bott, 751.

Sessions not com-
pellable to state
a case.

If a session be adjourned pending the settlement of a special case, the court will grant a *mandamus* commanding the sessions to complete the case. *R. v. Justs. of Sussex*, 2 Bott, 751.

Adjournment of
sessions.

If the justices at sessions are equally divided, and no order be made, nor the sessions adjourned, no order can be made at a subsequent sessions. *Bodmin v. Warligné*, 2 Bro. P. C. 733.

Where justices
divided in opi-
nion.

Special orders of sessions are considered in the nature of special verdicts, VOL. V.

Special orders,
verdicts, &c.,

ADJOURNMENT, FEES, ANDESTREATS.

which are not to state the evidence of the fact, but the fact itself. *R. v. Martley, Burr. S. C. 120*; 2 *Bott*, 741.

The court ordered the sessions to inquire into a fact which appeared doubtful on the original order of removal, even though the sessions stated no case for the opinion of the court. *R. v. Margam*, 1 *T. R.* 775.

What to be stated in a settlement case.

The sessions should state, as a fact (in a settlement case), whether the master dispensed with the service before the end of the year, or whether there were a dissolution of the contract by mutual consent. *R. v. St. Peter, Norwich*, 8 *T. R.* 477.

Special cases may be granted on convictions, &c.

Special cases are most usually granted in cases of settlement and rating. They may, however, be granted in all cases of orders and convictions, where the *certiorari* is not taken away by statute. *The King v. Allen*, 15 *East's R.* 333.

But the Court of King's Bench will take no cognizance of a special case reversed on an indictment at sessions. *The King v. the Inhabitants of Salop*, 13 *East's R.* 95.

K. B. will not consider more than the question put.

Where one question alone is submitted to the Court of King's Bench by the sessions, that court will not consider any other questions. *R. v. Guildford*, 2 *Chit.* 284.

V. Of Adjournment, Fees, and Estreats.

Adjournment of the sessions.

Where the sessions is adjourned, the style of the sessions ought not to run *at such a sessions held by adjournment*; but the original meeting of the sessions ought to be set forth, and that it was continued from thence to such further time by adjournment. 2 *Str.* 823, 865. See also *R. v. Walker*, 2 *Sess. Ca.* 21.

But such adjournment ought not to be beyond the time of meeting of the next quarter sessions, as in the case of *R. v. Grince, T.*, 4 *Geo. I.* An indictment was found before the justices for the county of Lincoln, against a constable, for refusing to obey an order of the justices; and the defendant was tried, convicted, and had judgment given against him, at a general sessions, held the 3rd day of May (which was after the Easter sessions began), by the adjournment of the Epiphany sessions; but, by the Court of King's Bench, the judgment was reversed, because the justices cannot continue one general sessions to a day subsequent to the time appointed by the 2 *Hen. V. c. 4*, for the holding another original sessions. 19 *Vin. Abr.* 358.

The adjournment of a sessions must be made by the same number of justices as are necessary to hold it. *R. v. Westington*, 2 *Bott*, 733.

Wages of the justices and estreats.

By the 12 *Rich. II. c. 10*, the justices shall take for their wages 4s. the day for the time of their sessions, and their clerk 2s., of the fines and amerciaments arising and coming of the same sessions, by the hands of the sheriffs. And the lords of franchise shall be contributory to the said wages, after the rate of their part of fines and amerciaments. See *Justices*, Vol. III. p. 473.

But by the 14 *Rich. II. c. 11*, no duke, earl, baron, or baronet, shall take any wages.

And the estreats of the justices shall be doubled, and the one part delivered by them to the sheriff, to levy the money thereof rising, and thereof to pay the justices their wages by the hand of the sheriff, by indenture betwixt them thereof to be made.

Fees in sessions.

The fees in sessions for traversing, trying, or discharging indictments, discharging recognizances of the peace and good behaviour, and the like, do vary according to the custom of the country; and, in that case, the custom of the place is to be observed. *Dalt. c. 41*. See title *Clerk of the Peace*, Vol. I.

By *Holt, C. J.*, the court cannot commit for non-payment of fees; for, if there be right, there is remedy; and *indebitatus assumpsit* will lie, if the fee be certain; if uncertain, *quantum meruit*. 2 *Ld. Raym.* 703.

Constables' allowances, &c.

As to the allowances to constables and others, by justices in sessions, see the 18 *Geo. III. c. 19*, title *Constable*, Vol. I.

And see, further, as to these matters, titles *Justices*, Vol. III.; *Constable*, FORMS.
Vol. I.; *Clerk of Peace*, Vol. I.

VI. Forms.

(No. 1.)

County of } *J. P. and K. P., Esqs., justices of our sovereign lord the king, assigned to keep the peace in the county of , aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors, committed in the said county, and one of us of the quorum; to the sheriff of the same county, greeting. On the behalf of our said sovereign lord the king, we command you that you omit not, by reason of any liberty within your county, but that you enter therein, and that you cause to come before us, or others justices, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, on , the day of now next ensuing, at the hour of [ten] in the forenoon of the same day, at , in the said county, twenty-four good and lawful men of the body of the county aforesaid, then and there to inquire, present, do, and perform all and singular such things which, on the behalf of our said sovereign lord the king, shall be enjoined them; also, that you make known to all coroners, keepers of gaols and houses of correction, high constables, and bailiffs of liberties within the county aforesaid, that they be then there to do and fulfil those things which, by reason of their offices, shall be to be done; moreover, that you cause to be proclaimed through the said county, in proper places, the aforesaid sessions of the peace to be held at the day and place aforesaid; and do you be then there to do and execute those things which belong to your office; and have you then there as well the names of the jurors, coroners, keepers of gaols and of houses of correction, high constables, and bailiffs, aforesaid, as also this precept. Given under our seals, at A., in the county aforesaid, the day of , in the year of the reign of*

Precept to summon the sessions. (a)

When the sheriff hath received this precept, he must direct several warrants to the several bailiffs of hundreds and liberties, containing in them the substance of the said precept.

(No. 2.)

County of } *The general quarter sessions of the peace holden at , in The style of the and for the said county, on the day of , in the sessions. year of the reign of our sovereign lord William the Fourth, of the United Kingdom of Great Britain and Ireland, king, defender of the faith, before J. P. and K. P., Esqs., and others, justices of our said sovereign lord the king, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, and of the quorum, and so forth.*

(No. 3.)

The condition of this recognizance is such, that if the above-bound A. W. shall personally appear at the next general quarter sessions of the peace to be holden at , in and for the county of , and then and there give such evidence as he knoweth against , for having feloniously taken and carried away , the property of , and do not depart thence without leave of the said court, then this recognizance to be void.

Condition of a recognizance to appear and give evidence at the sessions, in case where the king is a party.

(No. 4.)

William the Fourth, &c., to A. W., B. W., and C. W., of , [yeomen], greeting. We command you, and every of you, that, all business being laid aside, and all excuses ceasing, you do in your proper persons appear before our justices, assigned

Subpoena to give evidence in case where the king is not a party.

(a) Lamb, 381.

2 i 2

Sessions of the Peace—(Petty and Special.)

to keep our peace in the county of _____, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in our said county committed, at the sessions of the peace to be holden at _____, in and for the said county, on _____, the _____ day of _____ now next ensuing, at the hour of [ten] in the forenoon of the same day, to testify all and singular those things which you, or any of you, shall know, in a certain appeal now depending between the [churchwardens and overseers of the poor of the parish of _____, appellants, and the churchwardens and overseers of the poor of the parish of _____, respondents, touching and concerning the removal of A. P. from the said parish of _____ to the said parish of _____], [or, in case where the king is a party, to testify the truth, and give evidence on our behalf against A. O. for assaulting C. D.]; and this you and every of you are in nowise to omit, under the penalty of 10*l.* for you and every of you. Witness, J. P. and K. P., Esqs., two of his majesty's justices of the peace for the said county, the _____ day of _____.

Note.—There may be four witnesses put in one subpoena.

(No. 5.)

A subpoena ticket for a witness.

Mr. A. W. By virtue of a writ of subpoena to you and others directed, and herewith shown unto you, you are required personally to be and appear at the next general quarter sessions of the peace to be holden at _____, in and for the county of _____, to testify the truth according to your knowledge in a certain appeal now depending between [the churchwardens and overseers of the poor of the parish of _____, appellants, and the churchwardens and overseers of the poor of the parish of _____, respondents, concerning the removal of A. P. from the said parish of _____ to the said parish of _____], on the part of the said appellants; and herein you are not to fail, on pain of 10*l.* Dated the _____ day of _____, in the year _____.

Other matters relating to the very extensive office of a magistrate may be found under their proper heads, in almost every title of this work.

Sessions, Petty and Special.

Petit session, when necessary.

When expedient.

Special session, what.

Differs from petty session.

A PETTY or petit session is a meeting of two or more justices of the peace, holden of their own mere motion, for the execution of some power vested in them by law. There are some occasions on which, though a single magistrate may proceed, it is advisable and usual to procure the attendance of two or more. With respect to the cases in which one magistrate *may* act, but in which he should, in his discretion, seek the assistance of another, Mr. Talfourd observes, that it is obviously impossible to suggest any general rules. A magistrate will probably think it advisable to adopt the latter course, in cases which affect large pecuniary interests, which involve questions arising on statutes of difficult interpretation, and in all cases where any doubt may reasonably be expected, and where his decision would be final. Cases will also sometimes occur, in which, though not in themselves difficult, local circumstances may render the concurrence of two or more magistrates advisable, in order that justice may not only be fully and fairly, but satisfactorily administered. *Talfourd's Dick. Sess. p. 6.* See further as to when there must be two or more justices, *ante*, *Justices*, Vol. III. p. 466.

A special session is a meeting of justices, holden on a special occasion, for the execution of some particular branch of their authority, convened by reasonable notice to the other magistrates of the division. *Per Bayley, J., R. v. Just. of Worcestershire, 2 B. & A. 233; 2 Haw. c. 8, 18.*

It differs from a petty session, with which it has been sometimes confounded, in this important respect, that an opportunity must be afforded to the magistrates of the division in general to attend and participate in the proceedings, whereas the petty session may be holden by any two justices, on their mere private agreement, to transact such business as they are authorized to perform. *Talf. Dick. Sess. 6.*

By certain statutes, special sessions are required to be holden at particular periods. For instance, specific times are mentioned in the 48 Eliz. c. 2, and 54 Geo. III. c. 91, for appointing overseers of the poor; in 13 Geo. III. c. 78, and 55 Geo. III. c. 68, for appointing surveyors of the highways; in 37 Geo. III. c. 143, for appointing inspectors of weights and measures; and in 9 Geo. IV. c. 61, for licensing alehouses. (See respective *titles*.) The sessions, therefore, must in these cases be holden at the times named. There are others for which no particular time is or can be prescribed, and which may be convened whenever the occasion shall arise; as for diverting or stopping up highways, proceeding under the General Inclosure Act, and erecting a house of industry, &c.

PETTY AND SPECIAL.
Time of holding.

Where the manner of holding a special session is prescribed by the statute which directs it to be holden, the precise requisitions of the statute must, of course, be obeyed. Where no such direction is to be found, as in the great majority of instances, the special session may be convened at the instance of the *custos rotulorum* of the county; of the clerk of the peace or his deputy; or of two justices. The party or parties convening the session issue a precept to the chief constable, who thereupon issues precepts to the petty constables, and gives notice to all the magistrates usually acting within the district for which the session is convened. The precepts must express distinctly the purpose for which the session is to be holden; and of this purpose distinct notice must be given to the magistrates, more especially when the session is not one of those directed by statute to be periodically holden for specific purposes. *Talf. Dick. Sess. 7.*

Manner of holding.

The forms of these precepts vary, of course, with the occasion: a specimen of one for holding a special session relative to the state of highways, &c. will be found under title *Highways*, Vol. III. p. 98.

We have already seen that, to constitute a good special session, reasonable notice should be given to all the magistrates of the division; and, therefore, in the case of the *King v. Justs. of Worcestershire*, before mentioned, where a precept for holding a special session on the 15th of September, for diverting a way, was issued on the 12th, and the notices given on the 14th, the Court of King's Bench held that the session was not properly convened, and the order invalid.

Notice given to magistrates.

When the division within which the magistrates act is a *hundred*, the notices of holding a special sessions must be given by the high constable of the hundred. When they are justices of a corporation, the notices must be served by authority of the officer of the corporation analogous to the high constable. In the case of *R. v. Justs. of Surry*, the notice was served on the several magistrates of the division by the clerk of the magistrates, and not by the high constable; and the special session convened thereon was held bad. *5 B. & C. 241; 7 D. & R. 857; 4 D. & R. M. C. 8, S. C.*

Notice given by high constable.

But the statute only requires that the notice shall be given by the high constable or other proper officer; it is not necessary that it should be actually served by him; and, therefore, in the case of *R. v. Justs. of Suffolk*, where notice, having been signed by the chief constable, was served by a person acting under his authority, it was held good, as though he had personally served it. *R. v. Justs. of Suffolk, 6 B. & C. 110; 9 D. & R. 111, S. C.*

Need not be actually served by him.

The place of holding a special session is in the discretion of those who have power to convene it, so that it is within their jurisdiction; but it must be distinctly specified in the precepts and notices. *Dalt. 185, supra.*

A special session cannot be holden by different sets of magistrates for the same purpose. And, therefore, where two sets of magistrates have concurrent jurisdictions, and one appoints a meeting to grant ale licences, their jurisdiction attaches so as to exclude the others appointing a subsequent meeting; but they may all meet together on the first day. But if, after such appointment, the other set of magistrates meet on a subsequent day, and grant other licences, their proceeding is illegal, and the subject of an indictment, even without evidence of corrupt motive. *R. v. T. Sainsbury, Esq., and another, 4 T. R. 451.*

Cannot be holden by different sets of magistrates for same purpose.

The reader who wishes further information as to the ordinary occasions of

SESSIONS.

holding these sessions, and the statutes under which they are summoned, is referred to the different subjects, as arranged in titles through this work. The last act, 9 Geo. IV. c. 61, relating to the licensing and government of ale-houses, &c. is a very important one, so far as regards the directions contained therein for the holding an annual special session, and other special sessions auxiliary thereto, for the accomplishment of its purposes. It will be found under title *Alehouse*. Vol. I.

Sewers.

Statutes as to.

By the 23 Hen. VIII. c. 5, commissions of sewers shall be issued in all parts of the realm, where need shall require.

And by the 13 Eliz. c. 9, for one year after the expiration of a commission of sewers, the justices of the peace, or six of them (two of them being of the *quorum*), may execute the powers of the said commission, unless a new commission shall be issued in the meantime.

But as the power and authority of these commissioners of sewers is not general enough to fall in with the design of this book, those whom it may particularly concern are referred to the statutes at large which treat of this title; namely,

23 Hen. VIII. c. 5.

3 & 4 Edw. 6, c. 8.

25 Hen. VIII. c. 10.

7 Anne, c. 10.

Beside which general acts, there are others which concern the cities of London and Westminster only, and other places within the bills of mortality; to wit,

3 Jac. c. 14.

2 Wil. III. sess. 2, c. 8.

19 Car. II. c. 3, s. 20.

8 & 9 Wil. c. 37.

22 & 23 Car. II. c. 17.

47 Geo. III. c. 7.

Costs of distresses for sewers' rates.

Provisions of recited act extended to distresses for taxes, rates, tithes, &c.

The 7 & 8 Geo. IV. c. 17, after reciting that it is expedient to extend the provisions of the 57 Geo. III. c. 93, (which is an act to limit the charges of brokers on distraining for rents not exceeding 20*l.*, *ante*, *Distress*, Vol. I.) "to distresses for other cases," enacts, "that from and after the passing of this act all the rules, regulations, clauses, provisions, penalties, matters, and things in the said act contained, shall extend and be construed to extend, and shall be applied and put in execution, so far as the same are applicable and capable of being put in execution, with respect to any distress or levy which shall be made for any land tax, assessed taxes, poor's rates, church rates, tithes, highways rates, sewer rates, or any other rates, taxes, impositions, or assessments whatever, in all cases where the sum demanded and due for or in respect of such taxes, rates, tithes, assessments, or impositions shall not exceed the sum of 20*l.*, and in all cases where the whole of the several sums sought to be levied by distresses taken for different purposes at the same time shall not exceed the sum of 20*l.*; and that such costs and charges, and no other, shall be taken and payable as the costs and charges of the levy and disposition of such distresses; and that all such proceedings shall and may be had and taken against any and every person transgressing the regulations of the said act in the levying or distraining for any such taxes, rates, impositions, or assessments, and all such persons shall be liable to and shall incur such and the like penalties, as by the said act are directed, required, and imposed with respect to persons making any distress for rent contrary to the directions of the said act; and that in any order or judgment of any justices before whom any complaint shall be preferred in consequence of this act, such order shall be expressed to be made upon a complaint for the breach of the said recited act, as amended by this act; and that the said recited act and this act shall be taken and construed together as one act, to all intents and purposes whatsoever."

SEWERS.

In indictments for offences committed on sewers, the property may be laid in the commissioners.

The 7 Geo. IV. c. 64, s. 18, with respect to property under commissioners of sewers, enacts, "that in any indictment or information for any felony or misdemeanor committed on or with respect to any sewer or other matter within or under the view, cognizance, or management of any commissioners of sewers, it shall be sufficient to state any such property to belong to the commissioners of sewers within or under whose view, cognizance, or management any such things shall be, and it shall not be necessary to specify the names of any of such commissioners." See, *ante*, Indictment, Vol. III. p. 343.

The commissioners of sewers have jurisdiction over a sewer communicating with a navigable stream, or with the sea above the point where the tide ebbs and flows, if it be useful for navigation, and if the place over which the jurisdiction is, is likely to be benefited by it. *Dore v. Gray*, 2 T. R. 358.

Decisions as to sewers.

Sewer rates may be made to reimburse the charges of making such sewers. 2 Str. 1127.

If a sea-bank, or wall, which the owners of particular lands are bound to repair, be destroyed by tempest, without any default in such owners, the commissioners of sewers may order a new one (in a different form, if necessary) to be erected at the expense of the whole level. 8 T. R. 312.

The commission of sewers extends only to navigable streams, unless within two miles of London. *Yevo v. Holland*, 2 Bla. Rep. 717.

Where, in a large district, placed under one set of commissioners of sewers by the same commission, there were six separate lines of sewers, by which six several levels or divisions (into which the district was divided) were separately drained, and no one level derived benefit from the sewers in the others: held, that the commissioners ought to make a separate rate upon each level or division, for the maintenance of the sewers by which it was drained, and not one equal rate upon the whole district, for the maintenance of all the sewers within it. *R. v. Commissioners for Tower Hamlets*, 9 B. & C. 517.

The 23 Hen. VIII. c. 5, s. 17, having directed that "laws, acts, decrees, and ordinances," made by commissioners of sewers, shall stand good, and be put in execution so long time as their commission endureth, and no longer, except "the said laws and ordinances" be engrossed on parchment, and certified under the seals of the commissioners into Chancery, and have the royal assent; and the 13 Eliz. c. 9, having directed all commissions of sewers to continue in force for ten years, unless sooner determined by *supersedes*, or any new commission, and that all "laws, ordinances, and constitutions," made by force of such commission, being written in parchment, indented, and under seals, &c., shall, without such certificate or royal assent, continue in force, notwithstanding the determination of the commission by *supersedes*, until repealed or altered by new commissioners; and that all such "laws, ordinances, and constitutions," written in parchment, indented, and sealed, &c., shall, without certificate or royal assent, continue in force for one year after the expiration of such commission, by lapse of ten years from its *teste*: held, 1st, that the laws, acts, decrees, and ordinances, mentioned in the statute of Hen. VIII., mean the same as the laws, ordinances, and constitutions, mentioned in that of Elizabeth; and, 2ndly, that a decree made by commissioners, under a former commission, which had expired by lapse of ten years, directing a sea-wall to be re-founded, which had been destroyed by a violent tempest and inundation, and the sums necessary for its construction to be advanced by those who were before bound to sustain it *ratione tenuræ* (and who did advance the money accordingly), and that a rate should be made on the level for their reimbursement (although such decree had been written in parchment, indented, and sealed, which this was not), could not be enforced by commissioners under a new commission issued more than a year after the expiration of the former commission, as to so much of it as remained unexecuted, though good to the extent to which it had been executed; and therefore this court refused a *mandamus* to the new commissioners, to direct a rate to be levied on the level for the reimbursement, directed by the decree. *R. v. Somerset (Commissioners of Sewers)*, 9 East, 109; 3 Smith, 105 S. C.

Where the owner of marsh lands was bound by the custom of a sewage level to repair the sea-walls abutting on his own land, and by an extraordinary

SEWERS.

Decisions as to.

flood-tide the wall was damaged, the court refused to grant a mandamus to the commissioners of sewers to reimburse him the expense of the repairs; it appearing, by affidavit, that the wall had been previously presented for being in bad repair, and was out of repair at the time the accident happened: nor can the other landowners in the level be called upon to contribute to the repairs of such a wall. *R. v. Essex (Commissioners of Sewers)*, 2 D. & R. 700; 1 B. & C. 477. S. C.

The commissioners of sewers cannot maintain an action of trespass against the commissioners of a harbour, for breaking down a wall or dam erected by the former as such commissioners across a navigable river: as the authority to be exercised by them, on the behalf of the public, does not vest in them such a property or possessory interest as will enable them to maintain such action. *Newcastle (Duke) v. Clark*, 2 Moore, 666; 8 Taun. 602. S. C.

The commissioners of sewers cannot assess a person in respect of drains which communicate with other drains that fall into the great sewer, if the level of his drains be so much above the sewer that the stopping of the sewer could not possibly throw back the water so as to injure his premises, and if he be not, and it does not appear that he is likely to be, benefitted by the works done upon the sewer. *Masters v. Scroggs*, 3 M. & S. 447.

A tenement in the king's dock-yard, deriving a benefit from public sewers, and occupied by an officer of government who pays no rent, is still liable to be rated to the sewers. *Netherton v. Ward*, 3 B. & A. 21.

A decree by the commissioners of sewers is not conclusive against the party assessed for the payment of a rate, and who resides within the district over which they have jurisdiction; but such party may prove, in an action of trespass brought by him against one of the collectors of the rates, for taking his goods to satisfy such rate, that he derived no profit from the sewer in respect of which the assessment was made; and such evidence having been rejected at *Nisi Prius*, the Court of Common Pleas granted a new trial. *Stafford v. Hamston*, 5 Moore, 608; 2 B. & B. 691. S. C.

A local act of Parliament, enacting, that, for the better and more effectual execution of the act, all the lands, &c., within a certain district (previously within the jurisdiction of the general commissioners of sewers), and the works, drains, sewers, &c., thereof, should be subject only to the control, &c., and jurisdiction, of local commissions thereby appointed, and not to the control, direction, survey, or order, of any commissioners of sewers, does not discharge the inhabitants of the district from their liability to serve on juries at the sessions at sewers, without an express provision; nor will the Court of Exchequer discharge the estreats of fines imposed by the sessions, and levied on such inhabitants, for refusing to attend when summoned, and the mode of proceeding by which the question was brought under the consideration of the court was by a rule to show cause why the estreats should not be discharged, the commissioners of sewers having refused to join in framing an issue to enable the parties to try the question at law. *Ex-parte Oust*, 9 Price, 117.

Where bricklayers employed by the commissioners of sewers to repair a public sewer, performed the work in such a manner as to occasion a damage to a neighbouring house, held, that they were liable to an action, although the work itself appeared to be performed in a skilful manner. *Jones v. Bird*, 1 D. & R. 497; 5 B. & A. 837. S. C.

By the 23 Hen. VIII. c. 5, the jury by whom a presentment is made to commissioners of sewers, concerning what lands are within a level, and subject to a certain rate, ought to be summoned by the sheriff from the body of the county, in pursuance of a precept directed to him from the commissioners for that purpose. *R. v. Somerset (Commissioners of Sewers)*, 7 East, 71; 3 Smith, 105. S. C.

And a presentment made by a standing jury, constituted according to ancient usage, originally returned by the sheriff at the commencement of every new commission of sewers from certain parishes or districts, composed of land-owners there interested in disclaiming the general charges of the level, which jurymen acted for life, unless removed for cause, and only the foreman of whom was summoned by the sheriff on the particular occasion, which fore-

man thereupon convened the other jurymen, is illegal and void, and the want of jurisdiction of such presenting jury cannot be waved by traversing their presentment, and going to trial before another jury properly returned from the body of the county by whom such presentment was confirmed. The presenting jury, after being sworn and charged, must also prosecute their inquiry, upon hearing evidence on oath before the commissioners in *curia*, and make their presentment thereon, and not upon information collected in *pais*, without oath. *R. v. Somerset (Commissioners of Sewers)*, 7 East, 71; 3 Smith, 105, S. C.

By act of Parliament, empowering certain persons to make a floating harbour at Bristol, it was enacted, that it should and might be lawful for the directors of the Bristol Dock-Company, and they were thereby authorized and required, to make a common sewer in a certain direction, therein specified, and also to alter or re-construct all or any of the sewers of the said city, at the mouths thereof, so and in such manner that the sewers might be discharged considerably under the surface of the water in the floating harbour; and also to make such other alterations and amendments in the sewers of the said city as might or should be necessary, in consequence of the floating of the said harbour. The directors altered several of the sewers, so as to discharge them considerably under the surface of the water in the floating harbour; but the sewage there discharged was so offensive, as to be a nuisance to the neighbourhood: held, that, under the latter part of the clause set forth, the directors were authorized and required to make a new sewer, if necessary, to remove the nuisance. *R. v. Bristol Dock-Company*, 6 B. & C. 181.

The jury, who are summoned by the sheriff to make the presentment before commissioners of sewers, should come from the body of the county, and not from the district over which the commissioners have jurisdiction; and where the precept to the sheriff was to summon "good and lawful men of your county, and resident within the Tower Hamlets," that being the district over which the commissioners had jurisdiction, it was held bad, and a presentment made by that jury, and all the subsequent proceedings founded on it, were declared to be void. *Birkett v. Crozier*, 3 C. & P. 63; 1 M. & M. 119. S. C.

A jury impannelled to inquire and present at a court of commissioners of sewers, presented that A. was benefitted by the sewers, and he received a summons to show cause why he should not pay; he neglected to traverse the presentment, and a distress was levied for the amount of the rate: held that these facts were a justification in an action of trespass for taking the distress, as the presentment, if duly made and not traversed, justified the commissioners in issuing the warrant of distress. *Warren v. Dir*, 3 C. & P. 71, n.

The presentment need not contain the name of every person benefitted; if it find "all Fore Street" to be benefitted, that is enough to include every one having a house there; and every one so having a house might traverse such presentment, he stating in his traverse that his property is so situated, and that he is aggrieved by the presentment. *Id.*

The warrant of distress need not recite the presentment. *Id.*

The defendant is not entitled to recover his treble damages under the 23 Hen. VIII. c. 5, s. 12, in case of a verdict in his favour, or a nonsuit, unless he claims them on the record. *Id.*

Sheep.

[25 Hen. VIII. c. 13; 38 Geo. III. c. 65; 4 Geo. IV. c. 54; 7 & 8 Geo. IV. c. 29, s. 25.]

AS to Sheep-Stealing, see the 7 & 8 Geo. IV. c. 29, s. 25, and cases, under title *Larceny*, Vol. III. p. 571, 572.

SHEEP.

As to Cruelty to, see *Cruelty*, Vol. I. p. 561.

As to Slaughter-houses for Sheep, see *Horses*, Vol. III.

As to the Exportation of Sheep, see, *post*, *Woollen Manufactories*.

None shall have
above 2000 sheep.

The 25 Hen. VIII. c. 13, for the preventing many farms being accumulated into few hands, and for the encouragement of tillage, enacts that no person shall have above two thousand sheep at one time, at six score to the hundred, except it be upon his own inheritance only, and except what are necessary for his household, on pain of forfeiting 3*s.* 4*d.* for every sheep above that number, half to the king, and half to him that will sue.

And if any person shall happen to have more, by reason of being executor or administrator, he shall sell off within a year, till he have 2,000.

But sheep bequeathed to a child within age shall not be reckoned in the number.

When lambs are
deemed sheep.

Lambs are not to be reckoned sheep till the second Midsummer after they are lambed.

And the justices of the peace may inquire of this offence by a jury, or by information.

Turning out
scabbed sheep on
commons, &c.

By the 38 Geo. III. c. 65, s. 1, it is enacted, that "if any person or persons whosoever shall turn out, keep, or depasture, in or upon any forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, any sheep or lambs infected with such complaint or disorder called scab or mange, or shall wilfully and knowingly turn out, keep, or depasture, in or upon any such forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, any sheep or lamb which, at any time within the space of six calendar months immediately previous thereto, shall have been infected as aforesaid, every such person, on being thereof convicted on the oath of one or more credible witness or witnesses, or on his or her confession, before any one or more justice or justices of the peace for the county, district, or place, wherein such offence shall have been committed, shall forfeit and pay any sum not exceeding 10*l.*, nor less than 20*s.*, for every such offence, together with all reasonable costs and charges attending such conviction, such costs and charges to be ascertained by the justice or justices before whom such conviction shall take place; and so *toties quoties*, as often as any such sheep or lamb shall be so turned out, kept, or depastured."

Sheep and lambs
three months old
to be marked.

Sect. 2. That "the owner or owners of each and every sheep and lamb of the age of three months, which shall be turned out, kept, or depastured, on any forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, shall cause such sheep and lambs to be marked with the initial letters of his, her, or their christian name and surname, or christian names and surnames, or with such marks with which such sheep or lambs have for three preceding years been usually marked, such letters or marks not being less in length than three inches; and in case of neglect thereof, the owner or owners shall, for each and every such sheep and lamb not so marked, forfeit and pay any sum not exceeding 2*s.*, and so *toties quoties*, as often as any such sheep or lamb not so marked shall have been so turned out, kept, or depastured."

Persons having
a right on com-
mons, &c., may
complain to a
justice, and have
suspected sheep
examined.

Sect. 3. "That, for the better and more effectually discovering the offenders, and punishing the offences herein mentioned, it shall and may be lawful to and for any person or persons having sheep or lambs actually depasturing, or entitled to be depastured, on such forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, who shall perceive, or have reasonable ground or foundation for believing, that there is or are any sheep or lambs, sheep or lamb, depasturing or being in or upon the same, contrary to the direction and provisions of this act, to apply to any one or more justice or justices of the peace of the county, district, or place, wherein such lands severally do lie, who, upon complaint on oath made thereof before him or them, is and are hereby authorized and required to issue a warrant or warrants under his hand and seal, or their hands and seals, directed to the keeper or keepers of the said forests or chases, or his or their deputy or deputies, or to the petty constable or constables, bailiff, headborough, or tithingman

of any parish, hamlet, or township, within or near which any such forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, shall lie and be situate, or unto any other person or persons, who shall consent and be willing to be inserted in such warrant or warrants, and shall command and empower him or them, or any of them, to take or drive all and every such sheep and lambs, sheep and lamb, to the next pound, or to some other convenient place, there to be examined by the person or persons who shall have made such application to such justice or justices as aforesaid, his, her, or their servant or agent, and by the person or persons to whom the said warrant shall be directed, any or either of them, notice being first given six hours at the least before such examination shall take place, by the person or persons making such complaint, or by his, her, or their servant or agent, to the owner or owners of such sheep or lambs, sheep or lamb, or unto his, her, or their hind, bailiff, or servant, or left at his, her, or their last or usual place of abode, if any or either of them be known, and do reside in the parish or parishes, hamlet or hamlets, township or townships, where such sheep or lambs, sheep or lamb, shall have been so found, describing the pound or place the same have been taken or driven to, in order that he, she, or they may, should he, she, or they judge proper, be present at such examination; and if, after such examination, it shall be proved to the satisfaction of the justice or justices granting such warrant or warrants, that such sheep or lambs, sheep or lamb, have or hath not been kept or depastured in or upon such lands and grounds, contrary to the directions and provisions of this act, then and in such case each and every such sheep and lamb shall be taken and driven back to the place or places from whence it was taken or driven previous to such examination, and such justice or justices shall award such costs, charges, and damages to the owner or owners thereof, as to him or them shall seem reasonable; and such costs, charges, and damages, shall be paid by the person or persons making such complaint, and shall be recovered in like manner as any forfeitures or penalties are by this act directed to be recovered."

If not found defective, to be returned to the place from which taken.

Sect. 4. "That if, upon any such examination, it shall appear to such justice or justices, that any such sheep or lambs, sheep or lamb, have or hath been turned out, kept, or depastured, in or upon any such lands or grounds, infected as aforesaid, or which at any time within the space of six calendar months immediately previous thereto shall have been infected as aforesaid, then and in such case the said justice or justices shall and may direct the same to be impounded, detained, and kept, and to be forthwith marked on both sides with the letter S (the length of such letter not being less than five inches), such marks to be made with pitch or tar, or some other adhesive material, such as sheep have been usually marked with in the neighbourhood, and shall also cause the left ear of each such sheep and lamb to be cut or slit in a horizontal line (such cut or slit not exceeding the length of one inch), and the same, when so marked, shall be delivered, upon demand, to the owner or owners thereof; and the costs, charges, and expenses attending the taking, driving, keeping, impounding, and marking of the same, having been ascertained by such justice or justices, shall be paid by the owner or owners of such sheep or lambs, sheep or lamb, together with the penalties and forfeitures imposed by this act, for each and every such sheep and lamb, and such costs, charges, and expenses shall be recovered in like manner as any penalties or forfeitures imposed by this act are directed to be recovered; and any such mark or marks, when made, shall be and be deemed evidence of the fact that such sheep or lambs, sheep or lamb, have been turned out, kept, or depastured, contrary to the directions and provisions of this act, without any other evidence whatsoever."

If found defective, to be marked, and delivered, on demand, to the owner.

Sect. 5. "That if any person or persons, at any time within the space of six calendar months after any such sheep or lambs shall have been so marked as directed by such justice or justices, shall cut out, alter, or destroy the mark herein directed to be made in the ear of any such sheep or lamb, or if the owner or owners of any such sheep or lamb shall not immediately renew or cause to be renewed, in like manner, the mark or marks herein directed to be made in the side or sides of every such sheep or lamb, when and as often as such mark or marks on the side or sides shall be defaced, altered, obliterated, or destroyed,

Persons destroying marks, and owners not renewing them.

38 Geo. 3, c. 65.

† Sic.

Sheep not demanded in five days after marked, may be sold.

Penalties, how to be recovered and applied.

Form of conviction and adjudication.

by any means whatsoever, every such person, for each and every sheep and lamb, the said mark in the ear of which shall have been by him or her so cut out, altered, or destroyed, and such owner or owners, for each and every sheep and lamb, not having the said mark or marks on the side or sides thereof, immediately renewed as aforesaid, shall forfeit and pay, on conviction, any sum not exceeding 20s., nor less than 2s.; and the justice or justices before whom such conviction† be had, shall, and he and they is and are hereby required to cause every such mark so cut out, altered, defaced, obliterated, or destroyed, to be immediately renewed, and the sheep or lambs, sheep or lamb, to be detained and impounded until every such mark shall have been renewed."

Sect. 6. "That if such sheep or lambs, sheep or lamb, so detained or impounded, shall not be demanded and taken away by the owner or owners thereof within five days after the same shall have been so marked as aforesaid, it shall and may be lawful to and for any justice or justices of the peace of the county, district, or place, in which such sheep or lambs, sheep or lamb, shall have been so detained or impounded, by warrant under his or their hand and seal, or hands and seals, to direct the same to be sold, and the money arising by such sale, after deducting the costs, charges, and expenses of taking, driving, keeping, detaining, impounding, and marking the same, shall be paid to the overseer or overseers of the poor of the parish, hamlet, or place where such sheep or lambs, sheep or lamb, shall have been so detained or impounded; and in case the owner or owners of such sheep or lambs, sheep or lamb, shall not claim such money within twelve calendar months after such payment, the same shall be applied in aid of the poor-rate of such parish, hamlet, township, or place."

Sect. 7. "That all penalties and forfeitures by this act imposed for any offence against the same, shall be levied by distress and sale of the goods and chattels of the offender or offenders, by warrant under the hand and seal of some justice of the peace for the county or place where the offence shall be committed, rendering the overplus of the money arising by such distress and sale (if any), upon demand, to the owner of such goods and chattels, after deducting the costs and charges of making such distress and sale; which warrant such justice is hereby empowered and required to grant, upon conviction of the offender or offenders, by confession or upon the oath of one or more credible witness or witnesses; and one moiety of such penalties and forfeitures, when so levied, shall be paid to the informer, and the other moiety to the overseer or overseers of the parish or township where the offence shall be committed, to be applied by him or them in aid of the poor-rate."

Sect. 8. "That in all cases where any conviction shall be had for any offence or offences committed against this act, or against any order of sessions, or any adjudication for the marking of sheep or lambs made, the form of conviction, and the form of adjudication for the marking of any sheep or lambs, shall be in the words or to the effect following; that is to say,

" ——— } Be it remembered, that on this day of , in the
to wit. } year of the reign of , A. B. is convicted
before } of his majesty's justices of the peace for the of ,
by virtue of an act of Parliament, made in the thirty-eighth year of the reign of King
George the Third, intituled [here set forth the title of the act, (a) and specify the
offence, and the time and place when and where the same was committed]; and
I [or, we], the said , do adjudge him [her, or them] to forfeit and pay for
the same the sum of . Given under my hand and seal [or, our
hands and seals], the day and year aforesaid."

The Form of Adjudication.

" ——— } Upon the report upon the oath [or, oaths] of , this
to wit. } day of , in the year of our Lord ,
made unto } of his majesty's justices of the peace for the of ,
respecting certain sheep [and lambs] detained [or, impounded] in a

(a) "An Act for Preventing the Depasturing of Forests, Commons, and Open Fields, with Sheep or Lambs infected with the Scab or Mange, in that part of Great Britain called England."

, in the parish of , in the said county, by virtue of a warrant under our hands and seals [or, my hand and seal], do hereby adjudge that such sheep [and lambs] belonging to A. B. [or, the owner or owners thereof being unknown], appearing to me [or, us] to be infected with the scab or mange [or, having within the space of months immediately previous to the date hereof, been infected with the scab or mange], be marked forthwith according to the directions of an act, made in the thirty-eighth year of the reign of King George the Third, intituled [here set forth the title of the act]. Given under our hands and seals [or, my hand and seal], the day and year aforesaid."

Sect. 9. "That if any person or persons shall think himself, herself, or themselves, aggrieved by any thing done by or in pursuance of this act, such person or persons may appeal to the justices of the general quarter sessions of the peace to be holden for the county or place where such matter of appeal shall arise, next after the expiration of four calendar months from the time such matter of appeal shall have arisen, and the justices in such sessions are hereby authorized and required to hear and determine the matter of such appeal in a summary way, and to make such determination therein, and to award such costs as they shall judge proper; and such determination shall be final, binding, and conclusive to all parties, and to all intents and purposes whatsoever."

Appeal.

Sect. 10. "That where any distress shall be made for any sum or sums of money to be levied by virtue of this act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall the party or parties making the same be deemed a trespasser or trespassers *ab initio*, on account of any irregularity which shall afterwards be done by the party or parties distraining; and the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case: provided always, that no plaintiff or plaintiffs shall recover in any such action for such irregularity, or for any trespass or other wrongful proceeding, if tender of sufficient amends hath been made to him, her, or them, or his, her, or their attorney, or by or on the behalf of the defendant or defendants, before such action brought; and in case no such tender shall have been made, it shall be lawful for the defendant or defendants in any such action, by leave of the court, after such action shall have been brought, at any time before issue joined, to pay into court such sum of money as he, she, or they, shall think fit, whereupon such proceedings, order, and judgment, shall be made and given in and by such court, as in other actions where the defendant is allowed to pay money into court."

Distress not deemed unlawful for want of form; nor proceeding to be removed by *certiorari*.

Sheriff. (a)

[13 Edw. I. st. 1, c. 39; 9 Edw. II. st. 2; 4 Edw. III. c. 9; 5 Edw. III. c. 14; 14 Edw. III. st. 1, c. 7; 14 Edw. III. c. 15; 28 Edw. III. c. 7; 1 Rich. II. c. 11; 4 Hen. IV. c. 5; 1 Hen. V. c. 4; 23 Hen. VI. c. 8, c. 10; 17 Edw. IV. c. 6; 19 Hen. VII. c. 10; 27 Eliz. c. 12; 1 Mary, sess. 2, c. 8; 13 & 14 Car. II. c. 21; 3 Geo. I. c. 15; 9 Geo. I. c. 9; 20 Geo. II. c. 9; 20 Geo. II. c. 37; 42 Geo. III. c. 90.]

SHERIFF (*shireve*) in Saxon is *scirgerefa*, from *sciran*, to share or divide, for that the whole realm is parted and divided into *shires*; and *gerefa*, the comes, earl or governor, in the Belgic, called *græf* or *grave*. The word comes or count came first into Europe out of the eastern countries, and the word *county*, in

Sheriff, what.

(a) The office and duties of a sheriff subject in this edition. See *Watson on Sheriffs*; *Dalton's Sheriff*; *Impey's Sheriff*; and *Tidd's Practice*, 9 ed., *index*, *Sheriff*.

SHERIFF.

Latin *comitatus*, seemeth to be nothing else but the division or allotment over which the *comes* or *count* had jurisdiction. And when the counts or earls left the custody of the counties, then was the custody thereof committed to the *viscounts*, or *vicecomes* (which is the Latin name for sheriffs); so called, because they supply the place of the *comes* or earl. The *earl* was otherwise called by the Saxons, *eorl*, *ealdor*, *ealdorman* (elder or alderman), because they were usually men of age and experience; by a like derivation as that of *senators* among the Romans.

Qualification.

By four several statutes it is enacted that none shall be sheriff, except he have sufficient land within the shire to answer the king and his people, viz. 9 Edw. II. st. 2; 4 Edw. III. c. 9; 5 Edw. III. c. 4; 13 & 14 Car. II. c. 21. See *Watson's Sheriff*, 4.

Who exempted.

In general, no man can be exempt from the office of sheriff but by act of Parliament, or letters patent. 9 Rep. 46.

By the Militia Act, 42 Geo. III. c. 90, s. 172, no person, being an officer of the militia, shall be compelled to serve the office of sheriff.

In the case of the mayor of *Norwich v. Berry*, 4 Burr. 2109, it was adjudged that an attorney is exempted from the office of sheriff of a corporation, by reason of his attendance on the courts at Westminster; and, though Lord Mansfield, C. J., distinguished this office in a corporation from that of the sheriff of a county, he seemed to think the privilege extended equally to the latter.

The payment of the fine fixed by the 9 Geo. I. c. 9, s. 3, to be discharged from serving the office of sheriff of Norwich, does not exempt the person paying it for more than one year, unless the corporation agree that he shall be discharged for a longer time. *R. v. Woodrow*, 2 T. R. 731; see, also, *R. v. Bower*, 1 B. & C. 585; 2 D. & R. 842, S. C.

How chosen.

At the common law, the sheriff was chosen by the county; but, by the 14 Edw. III. st. 1, c. 7, he shall be appointed yearly on the morrow of All Souls (since altered to the morrow of St. Martin), at the Exchequer, by the chancellor, treasurer, and chief baron, taking to them the chief justices.

Except in London, and where the office is a man's freehold or inheritance. 23 Hen. VI. c. 8.

By the 3 Geo. I. c. 15, s. 18, the sheriff (except in Wales and Chester), (a) at the entering upon his office, shall take the following oath (to be administered in pursuance of a writ of *dedimus potestatem*):—

Sheriff's oath of office.

"I, A. B., do swear, that I will well and truly serve the king's majesty in the office of sheriff of the county of _____, and promote his majesty's profit in all things that belong to my office, as far as I legally can or may; I will truly preserve the king's rights, and all that belongeth to the crown; I will not assent to decrease, lessen, or conceal the king's rights, or the rights of his franchises; and, whensoever I shall have knowledge that the rights of the crown are concealed or withdrawn, be it in lands, rents, franchises, suits, or services, or in any other matter or thing, I will do my utmost to make them be restored to the crown again; and if I may not do it myself, I will certify and inform the king thereof, or some of his judges. I will not respite or delay to levy the king's debts for any gift, promise, reward, or favour, where I may raise the same without great grievance to the debtors; I will do right, as well to poor as to rich, in all things belonging to my office; I will do no wrong to any man for any gift, reward, or promise, nor for favour or hatred; I will disturb no man's right, and will truly and faithfully acquit at the Exchequer all those of whom I shall receive any debts or duties belonging to the crown; I will take nothing whereby the king may lose, or whereby his right may be disturbed, injured, or delayed; I will truly return and truly serve all the king's writs according to the best of my skill and knowledge; I will take no bailiffs into my service but such as I will answer for, and will cause each of them to take such oaths as I do, in what belongeth to their business and occupation; I will truly set and return reasonable and due issues of them that be within my bailiwick, according to their estate and circumstances, and make due panels of persons able and sufficient, and not suspected or procured, as is appointed by the statutes of this realm; I have not sold or let to farm, nor contracted for, nor have I granted or promised for reward or benefit, nor will I sell or let to farm, nor contract for, or grant for reward

(a) The Welsh judicature, &c., is abolished by the 1 Wil. IV. c. 70. See, post, *Wales*.

or benefit, by myself or any other person for me, or for my use, directly or indirectly, my sheriffwick, or any bailiwick thereof, or any office belonging thereunto, or the profits of the same, to any person or persons whatsoever; I will truly and diligently execute the good laws and statutes of this realm; and, in all things, well and truly behave myself in my office, for the honour of the king and the good of his subjects, and discharge the same according to the best of my skill and power. So help me God."

SHERIFF.

The Court of King's Bench granted an information against a person refusing to take on him the office of sheriff, because the vacancy of the office occasioned a stop to public justice; and the year would be nearly expired before an indictment could be brought. *R. v. Woodrow*, 2 T. R. 781.

Refusing to take office.

By the 4 Hen. IV. c. 5, the sheriff in person shall continue within his bailiwick, and shall not let it to farm.

Sheriff selling inferior offices.

And by the 3 Geo. I. c. 15, s. 10, none shall buy, sell, let, or take to farm the office of under-sheriff, gaoler, bailiff, or other office, pertaining to the office of high sheriff, on pain of 500*l.*, half to the king, and half to him that shall sue (in two years). See, further, *Office*, Vol. III.

By the 1 Hen. V. c. 4, no under-sheriff, sheriff's clerk, receiver, nor sheriff's bailiff, shall be attorney in the king's courts, during the time that he is in office with any sheriff.

Sheriff's officers not to be attorneys,

By the 6 Geo. IV. c. 50, s. 2, sheriff's officers are exempt from serving on juries. See *Jurors*, Vol. III. p. 406.

or jurors.

By the 3 Geo. I. c. 15, s. 11, the under-sheriff shall be appointed by the high sheriff, because he shall answer for him; and, by sect. 19, he shall take the like oath as the high sheriff, *mutatis mutandis*.

Appointment of the under sheriff.

The sheriff is answerable for the official acts of his under-sheriff. 1 *Doug.* 43, n.

An under-sheriff cannot refuse to execute process, till he has his fees. *Heskett's case*, 1 *Salk.* 330.

Appointment of bailiffs.

An inquisition, taken before two under-sheriffs extraordinary, was set aside: for the high-sheriff can appoint only *one* under-sheriff extraordinary. 2 *Wils.* 378.

The bailiffs, also, shall be appointed by him for the like reason; and every bailiff, when he gives security, upon entering into his office, shall make it part of the condition of such security that he will deliver a copy of the clauses in the 32 Geo. II. c. 28, concerning the carrying of prisoners for debt to alehouses (which is inserted more at large in Vol. II. title *Gaols*, &c. Sect. XVIII).

And by the 27 Eliz. c. 12, s. 2, such bailiff, or other person returning juries, or intermeddling with processes, shall take the following oath of office, before a judge of assize, or the *custos rotulorum*, or two justices of the peace (one of them being of the quorum):

"I, A. B., shall not use or exercise the office of bailiff corruptly during the time that I shall remain therein; neither shall nor will accept, receive, or take, by any colour, means, or device whatsoever, or consent to the taking of any manner of fee or reward of any person or persons, for the impanelling or returning of any inquest, jury, or tales, in any court of record, for the king, or betwixt party and party, above 2*s.*, or the value thereof, or such fees as are allowed and appointed for the same by the laws and statutes of this realm; but will, according to my power, truly and indifferently, with convenient speed, impanel all jurors, and return all such writ or writs touching the same as shall appertain to be done by my duty or office, during the time that I shall remain in the said office. So help me God."

Bailiff's oath.

Sect. 4, 6. Persons acting before they have taken the said oath shall forfeit 40*l.*; half to the king, and half to him that shall sue in the sessions, or other court of record.

Sect. 5. If they commit any act contrary to their said oath, they shall forfeit (in like manner), to the party grieved, his treble damages.

And the sheriff's bailiffs shall not be in the same office in three years after; 1 Hen. V. c. 4, except in London, Middlesex, Durham, Westmoreland, and towns being counties of themselves. 3 Geo. I. c. 15, s. 21.

The sheriff and bailiff are not both answerable in an action for a penalty for the same act. 2 T. R. 712.

But, after verdicts in both actions, the court will stay proceedings in both, on paying one penalty, and the costs in one action. 2 T. R. 712.

Liability of sheriff for bailiff's acts.

It seems that an action may be maintained against the sheriff for the penalty given by the 29 Eliz. c. 4, for the acts of his bailiff. 2 T. R. 155, *et seq.*

But all actions for breach of duty of the office of sheriff must be brought against the high-sheriff, though in consequence of the default of the under-sheriff or bailiff. *Cameron v. Reynolds*, 1 Cowp. 403.

Extortion.

An indictment lies against a sheriff for extortion. See *Extortion*, Vol. II.

Courts of sheriff.

The sheriff hath a jurisdiction both in criminal and civil cases; and for this purpose he hath two courts, his *tourn* for criminal causes, which is therefore the king's court; the other in his *county court* for civil causes, and this is the court of the sheriff himself. 3 Salk. 322. See *Tourn*, *post*.

A sheriff has no authority to order a freeholder into custody, and to take him before a magistrate, if he interrupt the proceedings at a county court, held for the election of knights of the shire, by making a noise and disturbance. *Spilsbury v. Micklethwaite*, 1 Taun. 146.

Accounts of his predecessor.

The new sheriff being appointed and sworn, he ought, at or before the next county court, to deliver a writ of discharge to the old sheriff, who is to set over all the prisoners in the gaol severally, by their names (together with all the writs), precisely, by view and indenture between the two sheriffs; wherein must be comprehended all the actions which the old sheriff hath against every prisoner, though the executions are of record. And, till the delivery of the prisoners to the new sheriff, they remain in the custody of the old sheriff, notwithstanding the letters patent of appointment, the writ of discharge, and the writ of delivery. Neither is the new sheriff obliged to receive the prisoners, but at the gaol only. But the office of the old sheriff ceases, when the writ of discharge cometh to him. *Wood's Inst. b. 1, c. 7*.

Sheriff to turn over unexecuted process to successor.

By the 20 Geo. II. c. 37, the old sheriff shall turn over to his successor, by indenture and schedule, all such writs and process as shall remain unexecuted; and the new sheriff shall execute and return the same.

Also prisoners.

When a sheriff quits his office, the custody of the county gaol can only belong to his successor. The county gaol is the prison for malefactors, and the sheriff ought to keep them there; but prisoners for debt, &c. where escape lies against the sheriff for their escape, may be kept in what place the sheriff pleases. 1 *Ld. Raym.* 136.

Sheriff, how far amenable to the justices of the peace.

The sheriff, having a justice of the peace's warrant directed to him, shall execute the same; but he need not go in person to execute it, but may authorize another to do it. 2 *Haw. c. 13, s. 29*.

And it is no excuse to the sheriff to return that he could not execute a precept because of resistance; for he may take with him the power of the county. 13 *Ed. 1, st. 1, c. 39*.

Also, the sheriff, on summons, is bound to attend the sessions of the peace, there to return his precepts, to take the charge of the prisoners, to receive fines for the king, and the like. 2 *Haw. c. 8, s. 45*.

And it seems clear, from the general reason of the law, which gives all courts of record a kind of discretionary power over all abuses by their own officers, that the sheriff is punishable by the justices in sessions for defaults in executing their writs and precepts. 2 *Haw. c. 22, s. 2*.

Taking recognizances.

In the case of *Bengough and another v. Rossiter*, 4 T. R. 505, it was determined that a sheriff has no authority to take a bond for the appearance of persons arrested by him, under process issuing upon an indictment at the quarter sessions for a misdemeanor: he can only take a recognizance for their appearance.

Sheriff a conservator of the peace, but not to act as justice.

Every sheriff is a principal conservator of the peace, by the common law, and may, *ex officio*, award process of the peace and take surety for it: and it seems to be the better opinion, that the security so taken by him is, by the common law, looked on as a recognizance, or matter of record, and not as a common obligation. 2 *Haw. c. 8, s. 4*.

But by 1 *Mar. Sess. 2, c. 8*, no sheriff shall exercise the office of a justice of the peace in any county wherein he is sheriff; and, in such case, his acts as a justice shall be void.

Sheriff to have the keeping of gaols.

By the 14 *Edw. III. st. 1, c. 10*, and 19 *Hen. 7, c. 10*, the sheriff shall have the keeping of gaols. See *Gaols*, Vol. II.

And in all civil causes, as in cases of imprisonment for debt, the sheriff or gaoler (at the election of the party) shall be answerable for escapes suffered by the gaoler; but if the gaoler suffer a felon voluntarily to escape, this, inasmuch as it reacheth to life, is felony only in the gaoler; but the sheriff may be indicted, fined, and imprisoned. 1 *Hale*, 597.

Where the sheriff levies money on a *fieri facias*, the plaintiff may have an action of debt against him for the money, because it was received by him to the plaintiff's use, and the defendant is discharged of it; and it lies against his executors, if he die. 3 *Salk*. 323.

The manner of passing his accounts is directed at large by the 3 Geo. I. c. 15 and 16, which being foreign to our purpose, are not here inserted.

By the 14 Edw. III. st. 1, c. 7, and the 28 Edw. III. c. 7, no sheriff shall continue in his office above one year, except in London, Middlesex, and towns being counties of themselves, and where the office is a man's freehold or inheritance. See the 23 Hen. VI. c. 8; 3 Geo. I. c. 15, s. 21.

And by the 1 Rich. II. c. 11, none that hath been sheriff shall be so again within three years, if there be other sufficient.

But by the 17 Edw. IV. c. 6, the sheriff may hold his office after the year, during Michaelmas and Hilary terms, if not before lawfully discharged.

By the 3 Geo. I. c. 15, s. 8, if the sheriff shall die before his office shall be expired, the under-sheriff shall execute the same in the deceased sheriff's name, till a new sheriff be sworn, and be answerable for the execution thereof, as the deceased sheriff would have been.

The sheriff's duty, before and at the assizes, consists in, 1st, proclaiming the assize; 2ndly, summoning the different juries: viz. the grand jury, nisi prius jury, crown jury, and also the special juries, if any, and granting views; see *Jurors*, Vol. III.; 3rdly, making his return to the assize precepts; 4thly, making and delivering a list of the prisoners to the judges, attending the judges, and providing them lodgings, &c.

The sheriff makes the required proclamation, by inserting an advertisement in the county newspapers. In some counties this is done by placarding printed proclamations in the principal towns and villages throughout the country. *Watson's Sheriff*, 276.

The sheriff, as well as his under-sheriff, must be in constant attendance on the judges during the whole of the assizes, and should provide the judges with lodgings, according to the custom of the particular county.

The sheriff should also go in state to meet the judges at the accustomed place, before they enter the town.

These, and other such ceremonies, vary in different counties, and the under-sheriff may readily inform himself of what attention he should pay the judges.

The under-sheriff has a great many payments to make, to the criers, to the attendants of the judges, to his javelin-men, &c. &c.; these are also regulated by custom.

For payments for the judges' lodgings, and other payments, as rewards, &c. he should take receipts, and these will be allowed him in his accounts. See *Assizes*, Vol. I.; *Stirz-Mall*, p. 525.

In case of any person being condemned to death, and left for execution, the under-sheriff should attend, and also collect his constables, bailiffs, and all the disposable civil force he can command, to attend the execution. See *Watson's Sheriff*, 278.

The sheriff's duty, before and at sessions, chiefly consists in proclaiming the sessions, in returning the grand jury, and giving notice to all stewards, constables, bailiffs of hundreds and liberties, and other officers.

He is bound to provide and make ready a fit and decent place for holding the sessions, unless where this duty is otherwise repealed by statute. *Dalt. J.* 372.

He should attend the sessions by himself or his deputy, on summons, to return his precepts, receive fines for the king, and take charge of prisoners; and if he neglect to do so, he may be fined by the court. *Dick. Sess.* 50.

The under-sheriff, at the sessions, receives all fines paid there.

He is also to pay the justices of the peace their wages, viz. 4s. *per diem*, and

Sheriff answerable for money levied by him.

Passing his account.

How long he shall continue in office.

Sheriff dying before the expiration of his office.

Duty of sheriff at assizes.

Execution of a criminal.

Sheriff's duty at sessions.

SHERIFF.

2s. to the clerk of the peace, which will be allowed the sheriff in his accounts. *Watson*, 280.

The sheriff must execute the writs and precepts of justices in session, and he is responsible to the court of which he is an officer, though he may execute any process by deputy. 2 *Haw. c.* 22.

Ships.

As to *Seamen* in general, see *Seamen*, *ante*.

As to *Stealing* from Ships, see *Larceny*, Vol. III. p. 577.

As to *Plundering Wrecks*, &c., see *Wreck*, *post*.

As to *Assaults* relative to Ships, &c., see *Assault*, Vol. I. p. 282.

As to *Going Abroad*, see *Foreign Service*, Vol. II.

As to *Piracy*, see *Piracy*, *ante*.

As to *Trial of Offences* at Sea, see *Admiralty*, Vol. I., and the general clauses of the 7 & 8 Geo. IV. c. 29, 30, and 9 Geo. IV. c. 31.

As to regulations of Shipping, &c., on the River *Thames*, see *Thames*, *post*.

Herein—

I. *Setting Fire to, or Destroying Ships*, p. 498.

[7 & 8 Geo. IV. c. 30, s. 9.]

II. *Damaging Ships otherwise than by Fire*, p. 499.

[7 & 8 Geo. IV. c. 30, s. 10.]

III. *Offences tending to the Loss of Vessels*, &c., p. 499.

[2 Geo. III. c. 28; 1 & 2 Geo. IV. c. 75, s. 11; 7 & 8 Geo. IV. c. 30, s. 11.]

IV. *Destroying, &c. King's Ships and Magazines*, &c., p. 500.

[12 Geo. III. c. 24, ss. 1, 2.]

V. *Preventing Seamen Working*, &c., p. 501. See *Seamen*.

VI. *Masters detaining Certificate of Registry*, &c., p. 501.

[6 Geo. IV. c. 110, s. 27, 49; 7 & 8 Geo. IV. c. 56, s. 20.]

VII. *Regulations, &c. as to Passengers*, p. 502.

[4 Geo. IV. c. 88; 6 Geo. IV. c. 105, 116.]

VIII. *Regulations, &c. as to Pilots*, p. 506.

[6 Geo. IV. c. 125.]

IX. *Forms, List of*, p. 521.

I. *Setting Fire to, or Destroying Ships*.

THE 7 & 8 Geo. IV. c. 30, s. 9, enacts, "that if any person shall unlawfully and maliciously set fire to, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that hath underwritten, or shall underwrite any policy of insurance upon such ship or vessel, or on the freight

Setting fire to or
destroying a ship.

thereof, or upon any goods on board the same, every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon."

DAMAGING,
&c.

See the general clauses affecting all the provisions of this act, *Malicious Injuries to Property*, Vol. III.

Death.

This is nearly a re-enactment of the second section of the 43 Geo. III. c. 113, as to destroying ships.

The 7 & 8 Geo. IV. c. 27, repeals so much of the 22 & 23 Car. II. c. 11, as relates to the wilful destruction of any ship by any of the persons belonging to it, as therein mentioned; and of so much of the 33 Geo. III. c. 67, as relates to persons who shall wilfully and maliciously set fire to, or destroy or damage otherwise than by fire, any ship, keel, or other vessel. The 9 Geo. IV. c. 31, repeals the 43 Geo. III. c. 113.

Repeal.

II. Damaging Ships not by Fire.

The 7 & 8 Geo. IV. c. 30, s. 10, enacts, "that if any person shall unlawfully and maliciously damage, otherwise than by fire, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or to render the same useless, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years; and, if a male, to be once, twice, or thrice, publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment."

Damaging ships.

See the general clauses affecting this and all the provisions of this act, *Malicious Injuries to Property*, Vol. III.

The 7 & 8 Geo. IV. c. 27, repeals so much of the 22 & 23 Car. II. c. 11, as relates to the wilful destruction of any ship by any of the persons belonging to it, as therein mentioned; and the fifth and sixth sections of the 33 Geo. III. c. 67.

Repeal.

III. Offences tending to the Loss of Ships, &c.

The 7 & 8 Geo. IV. c. 30, s. 11, enacts, "that if any person shall exhibit any false light or signal, with intent to bring any ship or vessel into danger, or shall unlawfully and maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, or destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, or shall, by force, prevent or impede any person endeavouring to save his life from such ship or vessel (whether he shall be on board or shall have quitted the same), every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon."

Exhibiting false signals to a ship, &c.; destroying a shipwrecked vessel or cargo, &c.

See the general clauses affecting this and all the provisions of this act, *Malicious Injuries to Property*, Vol. III.

The 7 & 8 Geo. IV. c. 27, repeals so much of the 13 Anne, c. 21, *vulgo* 12 Anne, st. 2, c. 18, "as relates to any person upon whom any goods stolen or carried off from any vessel in distress shall be found, and to the several offences touching vessels in distress, which are thereby made capital felonies;" and also the 1st, 2d, 3d, 4th, and 8th sections of the 26 Geo. II. c. 19.

See, further, *Black, post*.

As to assaults on persons endeavouring to save wrecked goods, see *Assault*, Vol. I. p. 282; *Black, post*.

The 1 & 2 Geo. IV. c. 75, s. 11, enacts, "that if any person or persons shall wilfully cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall do or commit any act with intent and design to cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other way injure or conceal, any

Cutting away buoys, ropes, &c., belonging to ships, whether in distress or otherwise.

OFFENCES
TENDING TO
LOSS OF SHIPS.

Transportation
or imprisonment.

Receiving anchors,
&c.,
weighed up.

Carrying anchors
abroad.

Persons convicted
of cutting or
spoiling any
cording, cable,
or buoys of ves-
sels at anchor
in the river, with
intent to steal the
same, shall be
transported for
seven years.

buoy, buoy-rope, or mark belonging to any ship or vessel, or which may be attached to any anchor or cable, belonging to any ship or vessel whatever, whether in distress or otherwise, such person or persons so offending shall, on being convicted of such offence, be deemed and adjudged to be guilty of felony, and shall be liable to be transported for any term not exceeding seven years, or in mitigation of such punishment to be imprisoned for any number of years, at the discretion of the court in which the conviction shall be made."

Sect. 12. "That if any person shall knowingly and wilfully, and with intent to defraud and injure the true owner or owners thereof, or any person interested therein as aforesaid, purchase or receive any anchors, cables, or goods, or merchandize which may have been taken up, weighed, swept for, or taken possession of, whether the same shall have belonged to any ship or vessel in distress or otherwise, or whether the same shall have been preserved from any wreck, if the directions hereinbefore contained with regard to such articles shall not have been previously complied with, such person or persons shall, on conviction thereof, be deemed guilty of receiving stolen goods, knowing the same to be stolen, as if the same had been stolen on shore, and suffer the like punishment as for a misdemeanor at the common law, or be liable to be transported for seven years, at the discretion of the court before which he, she, or they shall be tried."

By sect. 15, persons carrying anchors and cables abroad may be transported. The 1 & 2 Geo. IV. c. 76, enacts similar provisions for the Cinque Ports.

By the 2 Geo. III. c. 28, s. 13, it is enacted, "that if any person or persons shall cut, damage, or spoil, any cordage, cable, buoys, buoy-rope, head-fast, or other fast, fixed to any anchor or moorings belonging to any ship or vessel at anchor or moorings in the river Thames, or any rope used for the purpose of mooring or rafting masts or timber, or shall be aiding or assisting therein, with an intent to steal the same; such person or persons shall, being convicted thereof on the oath of two or more credible witnesses, be transported to some of his majesty's plantations in America for the space of seven years, according to the laws now in force for the transportation of felons."

IV. *Burning or Destroying King's Ships, Magazines, &c.*

Persons who shall
wilfully set on
fire ships of war,
in any of his ma-
jesty's dock-
yards, or any mi-
litary, naval, or
victualling stores,
&c. shall suffer
death, as in cases
of felony.

By the 12 Geo. III. c. 24, after reciting that "the safety and preservation of his majesty's ships of war, arsenals, magazines, dock-yards, rope-yards, victualling-offices, military, naval, and victualling stores, and the places where such stores are kept or deposited, either within this realm, or in any of the islands, countries, forts, or places thereunto belonging, is of great importance to the welfare and security of the kingdom;" it is enacted, "that if any person or persons shall, either within this realm, or in any of the islands, countries, forts, or places thereunto belonging, wilfully and maliciously set on fire, or burn, or otherwise destroy, or cause to be set on fire, or burnt, or otherwise destroyed; or aid, procure, abet, or assist in the setting on fire, or burning, or otherwise destroying of any of his majesty's ships or vessels of war, whether the said ships or vessels of war be on float or building, or begun to be built, in any of his majesty's dock-yards, or building or repairing by contract in any private yards, for the use of his majesty, or any of his majesty's arsenals, magazines, dock-yards, rope-yards, victualling-offices, or any of the buildings erected therein, or belonging thereto; or any timber or materials there placed, for building, repairing, or fitting out of ships or vessels; or any of his majesty's military, naval, or victualling stores, or other ammunition of war, or any place or places, where any such military, naval, or victualling stores, or other ammunition of war is, are, or shall be kept, placed, or deposited; that then the person or persons guilty of any such offence, being thereof convicted in due form of law, shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy." (As to clergy being abolished, see *Clergy, Benefit of*, Vol. I.)

Sect. 2. "That any person who shall commit any of the offences beforementioned, in any place out of this realm, may be indicted and tried for the same, either in any shire or county within this realm, in like manner and form as if such offence had been committed within the said shire or county, or in such island, country, or place, where such offence shall have been actually committed, as his majesty, his heirs, or successors, may deem most expedient for bringing such offender to justice; any law, usage, or custom notwithstanding."

See these provisions more fully considered, *Stores, post.*

Person offending out of this realm, may be tried in any shire, if within this realm.

V. Preventing Seamen Working, &c.

By the 9 Geo. IV. c. 31, s. 26, any person preventing seamen by force from working in the ship, &c., may be punished before two magistrates with imprisonment not exceeding three months. See this enactment and law fully noticed, *Assault*, Vol. I. p. 282; *ante*, *Seamen*, p. 350.

The provisions of the former act, 33 Geo. III. c. 67, relating to this offence, appear repealed by the 9 Geo. IV. c. 31.

Preventing seamen working, &c.

VI. Masters Detaining Certificate, Registry, &c.

The 6 Geo. IV. c. 110, is the last act relative to the registering of British vessels, the 4 Geo. IV. c. 84, being repealed by the 6 Geo. IV. c. 105.

Offences as to registry, &c.

By the 27th section of the 6 Geo. IV. c. 110, after reciting that "it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted;" it is enacted, "that in case the master of any ship or vessel, or any other person, who shall have received or obtained by any means or for any purpose whatever the certificate of the registry thereof (whether such master or other person shall be a part owner or not), shall wilfully detain and refuse to deliver up the same to the proper officers of his majesty's customs, for the purposes of such ship or vessel, as occasion shall require, it may and shall be lawful to and for any owner or owners of such ship or vessel, the certificate of registry of which shall be detained and refused to be delivered up as aforesaid, to make complaint on oath against the master of the ship or vessel, or other person, who shall so detain and refuse to deliver up the same, of such detainer and refusal, to any justice of the peace residing near to the place where such detainer and refusal shall be, in Great Britain or Ireland, or to any member of the supreme court of justice, or any justice of the peace in the islands of Jersey, Guernsey, or Man, or in any colony, plantation, island, or territory to his majesty belonging, in Asia, Africa, or America, or Malta, Gibraltar, or Heligoland, where such detainer and refusal shall be in any of the places last mentioned; and on such complaint the said justice or other magistrate shall and is hereby required, by warrant under his hand and seal, to cause such master or other person to be brought before him to be examined touching such detainer and refusal; and if it shall appear to the said justice or other magistrate, on examination of the master or other person, or otherwise, that the said certificate of registry is not lost or mislaid, but is wilfully detained by the said master or other person, such master or other person shall be thereof convicted, and shall forfeit and pay the sum of 100/., and on failure of payment thereof he shall be committed to the common gaol, there to remain without bail or mainprize for such time as the said justice or other magistrate shall in his discretion deem proper, not being less than three months nor more than twelve months; and the said justice or other magistrate shall and he is hereby required to certify the aforesaid detainer, refusal, and conviction, to the person or persons who granted such certificate of registry for such ship or vessel, who shall, on the terms and conditions of law being complied with, make registry of such ship or vessel *de*

Persons detaining certificate of registry to forfeit 100/.

Justice to certify detainer, and ship to be registered *de novo*.

**REGULATIONS
AS TO PASSENGERS,
&c.**

6 Geo. 4, c. 110.

If person detaining certificate have absconded, ship may be registered as in case of lost certificate.

7 & 8 Geo. 4, c. 56.

Proceedings against persons detaining register of ships.

now, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered *de novo*; and if such master or other person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded, so that the said warrant of the justice or other magistrate cannot be executed upon him, and proof thereof shall be made to the satisfaction of the commissioners of his majesty's customs, it shall be lawful for the said commissioners to permit such ship or vessel to be registered *de novo*, or otherwise, in their discretion, to grant a license for the present use of such ship or vessel, in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid.

By the 7 & 8 Geo. IV. c. 56, s. 20, after reciting, "that whereas if any person shall wilfully detain the certificate of registry of any ship or vessel, and refuse to deliver up the same to the proper officer of the customs, for the purposes of such ship or vessel, as occasion shall require, such person may be proceeded against in manner provided by the said last-mentioned act; and doubts have arisen whether such proceedings may be had, unless the certificate of registry shall have been first demanded of such person by the proper officer of the customs; and it is expedient to remove such doubts;" it is enacted, "that it shall be lawful for the justice, or other person having jurisdiction in the matter, and he is hereby required, to receive proof on oath from the person making complaint to him of such detainer and refusal, that such occasion has arisen, although the certificates shall not have been demanded by any officer of the customs; and the indorsing of any transfer of property, or of the name of any new master, upon the certificate of registry, by the officers of the customs, shall be deemed to be purposes for which there is occasion to deliver the certificate of registry to the officers of the customs; and if any person who is not in actual possession of a ship or vessel shall detain the certificate of registry of such ship or vessel, from some person who is in actual possession of such ship or vessel as ostensible owner thereof, or who has the actual charge or command of such ship or vessel as ostensible master thereof, then and in such case occasion shall be deemed to have arisen for delivering of such certificate to the officers of the customs at the port where such ship shall then be, in order that such certificate may be given to some person who is in actual possession of such ship or vessel as such ostensible owner or master."

In *Boven v. Fox*, 10 B. & C. 41, it was made a question, but not decided, whether a person holding the certificate of a ship's register, which had been deposited as a security for advances for the use of a ship, and refusing to deliver it up when demanded, is guilty of a *wilful* detention within the meaning of the now repealed act, 4 Geo. IV. c. 41, s. 25.

By the 49th section of the 6 Geo. 4, c. 110, it is enacted, "that if any person or persons shall falsely make oath to any of the matters hereinbefore required to be so verified, such person or persons shall suffer the like pains and penalties as are incurred by persons committing wilful and corrupt perjury; and that if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing, required or directed to be obtained, granted, or produced by this act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, or falsified, or shall wilfully grant such certificate or other instrument in writing, knowing it to be false, such person or persons shall for every such offence forfeit the sum of 500*l*."

As to proof of registry, see the 43d section of the 6 Geo. IV. c. 110, *Statutes*, Vol. II. p. 42.

Punishing persons making false oath;

or falsifying any document.

VII. Regulations as to Passengers.

Passengers.

By the 6 Geo. IV. c. 105, the laws for regulating vessels carrying passengers from the United Kingdom to foreign parts out of Europe, and not within the Straits of Gibraltar, are repealed, and by the 6 Geo. IV. c. 116, other provisions are made in lieu thereof.

The 4 Geo. IV. c. 88, s. 1, enacts, that "it shall not be lawful for the master or commander, or person having the charge or command of any vessel employed in the conveyance of passengers between Great Britain and Ireland, being of any burthen less than two hundred tons, to have or take on board, or to carry or convey any greater number of persons than twenty as passengers from any port in Great Britain to any port in Ireland, or from any port in Ireland to any port in Great Britain, unless a license for the conveyance of passengers shall have been previously granted to the owner or owners, or master or commander of such ship or vessel, under the hand of the collector, controller, or other chief officer of the customs, at the port from which such vessel shall sail from Great Britain to Ireland, and from Ireland to Great Britain respectively; and it shall be lawful for every such collector, controller, or other chief officer of the customs, to grant and sign such license without fee or reward, in such form and under such regulations as shall be directed by the commissioners of customs: provided always, that no such license shall be granted by such collector, controller, or other chief officer, except upon such certificate as shall be required by the commissioners of the customs, that such vessel is sea-worthy and properly found in all respects; and every such license shall remain in force for the space of one year from the date thereof, and no longer."

Sect. 2. "That it shall not be lawful for any master or other person having or taking the charge or command of any ship or vessel so licensed for the conveyance of passengers, which shall clear out from any port or place in the United Kingdom of Great Britain and Ireland, to have on board, at or after being cleared out, at any one time, or to convey, carry, or transport from any port or place in Great Britain or Ireland respectively, in any such ship or vessel, a greater number of persons (exclusive of the ordinary crew of such ship or vessel) than in the proportion of five adult persons, or of ten children under fourteen years of age, or of fifteen children under seven years of age, for every four tons of the burthen of such ship or vessel; and every such ship or vessel shall be deemed and taken to be of such tonnage or burthen as is or may be described and set forth in the respective certificate of the registry of each and every such ship or vessel, granted in pursuance of the several acts in force in Great Britain and Ireland respectively, relating to such certificates; and if any such ship or vessel shall be partly laden with goods, wares, or merchandize, or horses or carriages, then it shall not be lawful for the master or other person having the charge or command of such ship or vessel, to receive or take on board a greater number of persons (exclusive of the ordinary crew) than in the proportion of five adult persons, or of ten children under fourteen years of age, or of fifteen children under seven years of age, for every four tons of that part of such ship or vessel which shall remain unladen; and such goods, wares, or merchandize with which such ship or vessel may be partly laden shall, at the sight and under the direction of the collector or controller or other officer of the customs, at the port or place where such goods, wares, or merchandize shall be taken on board, be stowed and disposed of in such manner as to leave good, sufficient, and wholesome accommodation for the proportion of persons hereby allowed in such case to be received on board."

Sect. 3. "That if any master or any person having the charge or command of any such ship or vessel shall take on board any passenger or passengers, or if the owner or owners of any such ship or vessel shall engage to take on board any passenger or passengers beyond the number of twenty as aforesaid, without such license being previously obtained by such master, owner, or other person as by this act is required, every such master or other person, or owner or owners, shall for every offence forfeit the sum of 50*l.*; and if any master or other person having or taking the charge or command of any such ship or vessel, shall take on board, or if such master or other person, or the owner or owners of any such ship or vessel, shall engage to take on board a greater number of persons than in the proportion allowed by this act, such master or other person as aforesaid shall forfeit and pay the sum of 5*l.* for each and every or any such person, exceeding in number the proportion hereinbefore limited; and every such ship or vessel so having on board, or conveying or carrying any greater number than twenty persons without such license as aforesaid first had and ob-

REGULATIONS AS TO PASSENGERS, &c.

4 Geo. 4, c. 88.

No captain of vessel under 200 tons to take more than twenty passengers, unless licensed by collector of customs at the port.

No fee for license.

Conditions.

Proportion of passengers to tonnage, including the crew.

Tonnage according to certificate of registry.

If ship partly laden with goods, &c. tonnage for passengers to be exclusive of the part laden.

Master or owners taking passengers without license.

Penalty, 50*l.*

Taking more passengers than allowed.

Penalty.

In what case ship detained till penalty of 5*l.* paid.

**REGULATIONS
AS TO PASSENGERS,
&c.**

4 Geo. 4, c. 88.
Merchant vessels,
&c. of certain
tonnage, carrying
more persons
than in propor-
tion.

Penalty.

Abstract of act
hung up at cus-
tom-house, and
on board every
vessel.

Penalty, 10*l*.

Not to extend to
vessels in the ser-
vice of govern-
ment, &c.

Penalties, how
recovered and
applied.

Distress.

tained, shall and may be seized and detained by the collector, controller, surveyor, or officer of the customs, until such penalty of 60*l*. shall be satisfied and paid."

Sect. 4. "That it shall not in any case be lawful for any master or other person taking or having the charge or command of any trading or coasting ship or vessel, not being wholly employed in the conveyance of passengers, and not licensed to carry any passengers pursuant to this act, whether such ship or vessel shall be laden in part or in the whole with goods and merchandize, not being the baggage of or belonging to any passengers in such ship or vessel, or shall be employed in the carriage or conveyance of cattle or pigs, or shall be in ballast, and which shall sail from any port or place in Great Britain to any port or place in Ireland, or from any port or place in Ireland to any port or place in Great Britain, to have or take on board a greater number of persons than ten (exclusive of the ordinary crew of such ship or vessel), if such ship or vessel shall be of the burthen of one hundred tons or under, nor a greater number of persons than twenty (exclusive of the ordinary crew), if such ship or vessel shall be of a burthen greater than one hundred tons, and not exceeding the burthen of two hundred tons; and if more persons shall be found or taken on board any such ship or vessel than in the proportion herein allowed, every such master or other person as aforesaid shall forfeit and pay the sum of 5*l*. for every person so taken on board beyond such proportion."

Sect. 5. "That an abstract of this act shall be prepared and printed by and under the direction of the commissioners of his majesty's customs, and a printed copy of such abstract shall be hung up in the custom-house of every port of the United Kingdom, and a printed copy of such abstract, and also a copy of the license granted to the captain or owners of such ship or vessel, and a notice or statement of the number of persons allowed to be carried and conveyed in such vessel, shall be hung up and affixed in some conspicuous place on the deck and in the cabin of every ship or vessel carrying passengers under the regulations of this act; and the master or other person having or taking the charge or command of such ship or vessel shall cause the said copies to be kept and renewed, so that the same may be at all times accessible to every person on board such ship or vessel, upon pain that every such master or other person having or taking the charge or command of every such ship or vessel, in which such abstract, license, and notice, or any of them, shall not be hung up or affixed, and shall not be renewed and remain as aforesaid, shall for every such offence forfeit the sum of 10*l*."

Sect. 6. "That nothing in this act contained shall extend or be deemed or construed to extend to ships or vessels in the service of his majesty, or of his majesty's postmaster-general, or of the commissioners of customs and excise, or of the East-India Company; nor to any ship or vessel of the burthen of two hundred tons or upwards, nor to any ship or vessel employed in carrying troops."

Sect. 7. "That all penalties and forfeitures for any offence against this act shall and may be recovered at any time within three calendar months after the commission of such offence, in a summary way, by the order and adjudication of any one justice of the peace for the county or place in which the port shall be situate, from which any such ship or vessel shall depart, or at which any such ship or vessel shall arrive, on complaint to such justice for that purpose exhibited; and such penalty shall be levied, as well as the costs of such proceedings, on non-payment, by distress and sale of the goods and chattels of the offender or offenders, or person or persons liable to pay the same, by warrant under the hand and seal of such justice; and such justice is hereby authorized and required to summon before him any witness or witnesses, and to examine such witness or witnesses upon oath, of and concerning such offences, and to hear and determine the same; and the overplus (if any) of the money so levied or recovered, after discharging the penalty or forfeiture for which such warrant shall be issued, and the costs and expenses of recovering and levying the same, shall be returned upon demand to the owner or owners of the goods or chattels so seized or distrained; and in case such penalty or forfeiture shall not be forthwith paid upon conviction, then it shall be lawful for such justice

to order the offender or offenders so convicted to be detained and kept in safe custody, until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such justice, for his or their appearance before such justice on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than seven days from the time of taking any such security, and which security the said justice is hereby empowered to take by way of recognizance or otherwise; but if, upon the return of such warrant, it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for such justice, or any other justice of the peace for such county or place as aforesaid, and he is hereby authorized and required, by warrant under his hand and seal, to cause such offender or offenders to be committed to the gaol of such county or place, there to remain, without bail or mainprize, for any term not exceeding two calendar months, unless such penalty or forfeiture, and all reasonable charges, shall be sooner paid and satisfied; and one moiety of every such penalty or forfeiture, when so levied, shall be paid to the person or persons who shall sue or prosecute for the same, for his or her own use and benefit, and the other moiety thereof to the use of his majesty, his heirs, and successors."

REGULATIONS
AS TO PASSENGERS,
&c.

4 Geo. 4, c. 88.
Imprisonment.

Half to the pro-
secutor, and half
to the king.

Sect. 8. "That if any person shall think himself or herself aggrieved by any conviction in pursuance of this act, it shall be lawful for such person to appeal to the justices of the peace at the next general quarter sessions of the peace to be holden for the county or place, such appellant (if there be sufficient time after the cause of such complaint shall have arisen) first giving or causing to be given, ten days' notice at least in writing of his or her intention of bringing such appeal, and of the matter thereof, to the justice whose conviction shall be so appealed against, and within seven days next after such notice entering into a recognizance before the said justice or some other justice of the peace for the county or place, with two sufficient sureties conditioned to try such appeal, and to abide the order of such justices at sessions thereon, and to pay such costs as shall be awarded by the justices at such quarter sessions; and for want of sufficient time for giving such notice previous to the quarter sessions next after the cause of such complaint shall have happened, then such appeal, after such notice and under such recognizance, may be made at the second general quarter sessions of the peace to be holden for such county or place; and the justices at such first or second sessions, upon due proof of such notice having been given as aforesaid, and of the entering into such recognizance, shall hear and finally determine the cause and matter of such appeal in a summary way, and shall award such costs to the parties appealing or appealed against, as they the said justices shall think proper, and the determination of such justices at such quarter sessions shall be final, binding, and conclusive to all intents and purposes; and the said justices at such sessions may also, by their warrant or order, cause such costs so awarded by distress and sale to be levied of the goods and chattels of the person or persons who shall refuse or neglect to pay the same; and for want of sufficient distress may commit such person or persons to the common gaol or house of correction for the said county, there to remain for any time not exceeding two calendar months, or until payment of such costs."

Appeal to quarter
sessions.

Notice.

Security for
costs.

Determination of
justices final.

Distress.

Imprisonment.

Sect. 9. "That no proceedings against, nor any conviction of any offender or offenders against this act, or by or before any justice of the peace, shall be quashed for want of form, nor be removed or removable by *certiorari*, or any other writ or process whatsoever, into any of his majesty's courts of record at Dublin; and where any distress shall be made for any sum or sums of money to be levied by virtue of this act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio*, on account of any irregularity which shall be afterwards committed by the party or parties distraining, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in any action

Proceedings not
to be quashed for
want of form.

REGULATION
AS TO PASSENGERS, &c.

4 Geo. 4, c. 88.

Tender of
amends.Limitation of
actions.

General issue.

Double costs.

on the case; but no plaintiff or plaintiffs shall recover in any action for such irregularity as aforesaid, if tender of sufficient amends shall have been made by or on behalf of the party distraining, before such action commenced."

Sect. 10. "That any action or suit which shall be brought or commenced against any person or persons for any thing done in pursuance and by the authority of this act, shall be commenced within three calendar months next after the fact committed, and not afterwards, and shall be brought in the county, city, or place, where the cause of action shall arise, and not elsewhere; and that the defendant or defendants in such action or suit to be brought may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act; and if it shall appear to be so done, or if any such action or suit shall be brought after the time before limited for bringing the same, or shall be brought in any county, city, or place other than as aforesaid, then and in every such case the jury shall find for the defendant or defendants; and upon such verdict, or if the plaintiff or plaintiffs shall be nonsuited, or shall discontinue his, her, or their action, or if a verdict shall pass against the plaintiff, or if upon demurrer judgment shall be given against such plaintiff or plaintiffs, the defendant or defendants shall and may recover double costs, and have the like remedy for the same as any defendant or defendants hath or have for costs of suit in other cases by law."

VIII. Regulations as to Pilots.

Pilots.
6 Geo. 4, c. 125.

The 6 Geo. IV. c. 125, is the latest act respecting pilots and pilotage, and by the first section of that act, the 52 Geo. III. c. 39, s. 2, 52 Geo. III. c. 39, 55 Geo. III. c. 87, and all provisions in other acts relative to pilots and pilotage, are repealed.

This act being very voluminous, only those provisions will be noticed which come peculiarly within the object of this work. As to pilots in general, see 2 *Chit. Com. Law*, p. 46 to 61.

No person shall be licensed by the corporation, except as herein specified, nor take charge of a ship drawing more than fourteen feet water, until he shall have acted three years, and have been then re-examined and again approved.

Sect. 3. "That no person shall be licensed by the said corporation of Trinity House of Deptford Strond as a pilot, who shall not have served as mate for three years on board of, or who shall not have been for one year in the actual command of a square-rigged vessel of not less than eighty tons' register tonnage, as to licenses for the North Channel upwards, and not less than one hundred and fifty tons' register tonnage, as to licenses for the North Channel, Queen's Channel, South Channel, or other channels downwards, or who shall not have been employed in the pilotage or buoyage service of the said corporation of Trinity House for seven years, or who shall not have served an apprenticeship of five years to some pilot vessel licensed under the said act passed in the fifty-second year of the reign of his late majesty, or under this act; and that no person so licensed shall take charge as a pilot of any ship or vessel drawing more than fourteen feet water in the rivers Thames or Medway, or any of the channels leading thereto or therefrom, until such person shall have acted as a licensed pilot for three years, and shall have been, after such three years, on re-examination, approved of in that behalf by the said corporation of Trinity House, on pain of forfeiting 10*l*. for every such offence, as well by the person acting as such pilot, as also by the master or other person having the command of such ship or vessel, who shall permit any such person to take charge as a pilot of the same, contrary to the provision aforesaid."

Penalty as well by the person acting as by the person in command permitting him.

Pilots to pay annually 3*l*. 2*s*., and 6*d*. in the pound on their earnings;

Sect. 4. "That each and every pilot already licensed by the said corporation of Trinity House of Deptford Strond, or to be licensed by the said corporation under the authority of this act (except only such pilots as have been or shall be so licensed by the said corporation, upon their receiving certificates of examination by any sub-commissioners of pilotage), as in the said act of the fifty-second year of the reign of his said late majesty King George III., and hereinafter directed, in lieu and satisfaction of and for all the ancient and

accustomed duties heretofore payable by such pilots to the said corporation, shall from time to time and at all times hereafter pay or cause to be paid to the said corporation, or to such person or persons as they shall appoint to receive the same on their behalf, the sum of three guineas, in the month of January yearly; and that each and every pilot so licensed, or to be licensed by the said corporation as aforesaid, as well upon receiving such certificates as aforesaid, as otherwise howsoever, shall also from time to time and at all times, from and after the first day of July next, pay or cause to be paid to the said corporation, or to such person or persons and at such places and times as the said corporation shall in that behalf appoint, a certain poundage of 6d. in the pound upon all the pilotage earned by each and every of such pilots, from the said first day of July inclusive, on pain of forfeiture, for default of any of the payments aforesaid, or for any concealment or fraud therein or relating thereto, double the amount payable, and of being suspended or dismissed from acting as a pilot, at the discretion of the said corporation; which said payments, hereby directed to be made as aforesaid, shall be carried to and applied to the purposes of the pilots' fund of the said corporation hereinafter mentioned."

Sect. 8. "That it shall be lawful for the said Corporation of Trinity House of Deptford Strond, and they are hereby authorized and required to establish, vary, and alter, from time to time, as circumstances shall render the same necessary, rates of pilotage, in relation to all pilotage performed in any river, port, or place, or upon any coast whatever, by any pilot or pilots already licensed, or who shall be licensed by the said corporation, upon their receiving certificates of examination from sub-commissioners of pilotage as aforesaid, which rates shall be regulated by and proportioned as well to the size and draught of water of the vessels, as to the distance piloted, the detention and responsibility of the pilot, and such other circumstances as the said corporation may think fit to take into consideration in fixing and establishing such rates; of which establishment or alteration of rates of pilotage notice shall be given, by hanging up printed tables thereof, corrected from time to time, as variations therein shall be made at the several custom-houses at the ports to which the said rates shall apply; and no greater or less rates, or other reward or emolument for such pilotage, shall, under any pretence whatever, be demanded, solicited, received, paid, or offered, on pain of forfeiting 10*l.* for every such offence, as well by the person demanding, soliciting, or receiving, as by the person paying or offering such greater or less rates, reward, or emolument: provided that ships, returning by distress of weather, contrary winds, or on account of accident, into ports in the districts of the Isle of Wight, Plymouth, and Falmouth, shall be subject to pay one-half of the common pilotage in the said ports."

Sect. 15. "That no person shall, from and after the passing of this act, take charge of any ship or vessel, as a pilot belonging to the society or fellowship of pilots of Dover, Deal, and the Isle of Thanet, commonly called Cinque-Port pilots, before he shall be examined by the master and two wardens, or by four wardens of the said society or fellowship for the time being, touching his abilities, and shall be approved and admitted into the society or fellowship of the Trinity House of Dover, Deal, and the Isle of Thanet, by the lord warden of the Cinque Ports, and constable of Dover Castle for the time being, or his lieutenant for the time being; and if any person shall presume to act as a pilot belonging to the said society or fellowship, without having been so examined, approved, and admitted as aforesaid, every such person shall, for the first offence, forfeit 10*l.*, for the second, 30*l.*, and for every other offence, 40*l.*"

Sect. 18. "That a proper and sufficient number of pilots of the Cinque Ports, not less than eighteen at any one time, and in succession, from time to time, without intermission or any unnecessary delay, shall, at all seasonable times, by day and night, constantly ply at sea, or be afloat between the South Foreland and Dungeness; to take charge of ships and vessels coming from the westward; and such pilots shall not allow any ship or vessel, having a signal for a pilot flying, to pass without attempting to board her; and that upon proper signals being made at and from signal-houses now erected, or which may

PILOTS.

6 Geo. 4, c. 129.

To be applied to the purpose of the pilots' fund.

Corporation of Trinity House shall establish rates for pilotage performed by pilots licensed on certificates.

Of which rates, tables shall be hung up at the custom-houses of the respective ports, and no greater or less rates shall be received or paid.

No person shall take charge of any ship as a Cinque-Port pilot, till he has been examined and admitted.

Penalty.

A number of Cinque-Port pilots shall constantly ply at sea to take charge of ships coming from the westward; and upon signals of fleets, all pilots shall prepare to go off.

PILOTS.

6 Geo. 4, c. 125.

Rates in tables (A.) and (B.) of schedule (A.), may be demanded by pilots, and no greater or less.



Penalty.

Rates may be varied by the corporation of Trinity House and lord warden of the Cinque Ports respectively, with the consent of the privy council.

Penalty.

be erected, on commanding situations, near to Dover, for that purpose, giving notice of the approach of any fleet of ships or vessels coming from the westward, all Cinque-Port pilots not on duty at the time shall, according to such rules and regulations as to number, rotation, or otherwise, as have been or shall be made in that behalf, forthwith prepare to go afloat, and shall go off in sufficient time to fall in with such ships and vessels, on pain of forfeiting, in case of neglect herein, for the first offence the sum of 20*l.*, and for the second the offender shall be suspended from acting as a pilot for twelve months, and for the third offence shall forfeit his license to act as such pilot, and shall be rendered thereby incapable of acting thereafter as a pilot."

Act. 25. "That, from and after the passing of this act, the respective rates or prices hereinafter enumerated in the tables marked (A. and B.) respectively in the schedule marked (A.) to this act annexed, shall and may be lawfully demanded and received by any pilot licensed, or to be licensed, by the said corporation of Trinity House of Deptford Strond, or by the lord warden of the Cinque Ports, and constable of Dover Castle for the time being, or his lieutenant for the time being respectively, for the piloting or conducting of any ship or vessel from place to place, as expressed in the said tables respectively; that is to say, the respective rates or prices enumerated in the said table marked (A.) shall and may be demanded and received by any pilot licensed, or to be licensed by the said corporation; and the respective rates or prices enumerated in the said table marked (B.) shall and may be demanded and received by any pilot licensed, or to be licensed, by the said lord warden of the Cinque Ports and constable of Dover Castle for the time being, or his lieutenant for the time being; and no greater or less rates or prices, or other reward or emolument, shall, under any pretence whatever, be demanded, solicited, received, paid, or offered, than such rates or prices, on pain of forfeiting 10*l.* for every such offence, as well by the person demanding, soliciting, or receiving, as also by the person paying, or offering such greater or less rate or price, reward, or emolument."

Act. 26. "That it shall and may be lawful for the said corporation of Trinity House of Deptford Strond (as to the said rates or prices to be demanded and received by pilots licensed, or to be licensed, by the said corporation) and for the said lord warden of the Cinque Ports, and constable of Dover Castle for the time being, or his lieutenant for the time being, (as to the said rates or prices to be demanded and received by pilots licensed, or to be licensed, by the said lord warden and constable, or his lieutenant), and they are hereby respectively authorized and empowered, from time to time, and at any time or times hereafter, with the consent of his majesty, his heirs, and successors, in his or their most honourable privy council, to increase, reduce, alter, or modify, all or any or either of the said respective rates or prices so enumerated in the said tables respectively, or to substitute other rates or prices in lieu thereof, and the same rates or prices so increased, reduced, altered, modified, or substituted as aforesaid, again in like manner, and with the like consent, from time to time to increase, reduce, alter, or modify, or others to substitute in lieu thereof, and to fix and determine the period (so that the same be not less than three calendar months from the giving of the notice hereinafter mentioned), from and after which such altered or substituted rates and prices are to be demanded, of which rates and prices, and of the period from and after which the same are to be demanded, notice shall from time to time be given, by hanging up printed tables thereof in some public or conspicuous place in the Custom House of London, and also at the Trinity House in London; and from and after the period specified in such last-mentioned tables, the respective rates or prices therein enumerated may and shall be demanded and received by any pilot licensed by the said corporation of Trinity House, or by the lord warden of the Cinque Ports and constable of Dover Castle for the time being, or his lieutenant for the time being respectively, instead of the said several rates and prices mentioned in the said tables marked (A. and B.) respectively; and from and after such period, no greater or less rates or prices, or other reward or emolument, shall, under any pretence whatever, be demanded, solicited, received, paid, or offered, on pain of forfeiting 10*l.* for every such offence, as well

by the person demanding, soliciting, or receiving, as also by the person paying or offering such greater or less rate or price."

Sect. 32. "That every pilot-boat or vessel, or other boat or vessel, in the pilot service of any corporation or society established by law, in relation to pilotage, or of or belonging to any person authorized to act as a pilot by such corporation or society, shall, at all times, and on every station, be fitted with black sides, and have the upper streak, next the gunwale, painted white, and shall, while afloat, carry a flag at the mast-head, or on a sprit or staff, or in some other equally conspicuous situation, which flag shall be of large dimensions, proportioned to the size of the boat or vessel carrying the same, and shall be half red and half white, in horizontal stripes, of which the uppermost shall be white, and the same shall at all times be kept and preserved in a clean and distinct condition, so as to be easily discerned at a proper and sufficient distance; and every such boat or vessel shall also have the name of the principal pilot thereof, for the time being, painted in broad white letters, of three inches in length, on a black ground, on her stern, and on each bow such number as shall be expressed in the license of such principal pilot, which name and number shall not be hid or concealed by any person at any time, on pain of forfeiting, for the omission or evasion of any of the provisions hereinbefore made, in respect of such pilot boat or vessel, the sum of 20*l*. to be paid by the senior pilot on board, who is hereby declared answerable for the due observance of the matters aforesaid, by every person on board such boat or vessel; and in case any pilot shall be carried off in any boat not in the service of any such corporation or society, such pilot shall exhibit a similar flag at the mast-head, or on a sprit or staff, to distinguish that such boat has a pilot on board, on pain of such pilot so carried off forfeiting the sum of 20*l*., unless he shall show reasonable cause for having omitted to exhibit such flag."

Sect. 39. "That all pilots whose licenses shall authorize them to pilot ships or vessels from any place to the westward up to London Bridge, shall qualify themselves, and shall be examined as to their qualification and ability to conduct any ship or vessel into and out of Ramsgate Harbour, and the harbours of Dover, Sandwich, and Margate, and shall be obliged to pilot any ships or vessels into and out of any of the said harbours; and if any such pilot shall refuse to take charge of or conduct any ship or vessel into or out of any of the said harbours, such pilot shall forfeit all pay and reward to which he might otherwise have been entitled for the pilotage of any such ship or vessel, and shall be subject to such fine or other punishment as shall be established in that behalf by the by-laws, rules, orders, regulations, or ordinances of the corporation, or other authority, from which the license of such pilot shall have been derived."

Sect. 42. "That if any pilot taking charge of any ship or vessel into the rivers Thames or Medway, shall quit such ship or vessel at Gravesend or Standgate Creek, or in any other part of the Thames or Medway respectively, before such ship or vessel shall have arrived at the place to which she is bound in the said rivers respectively, without the consent of the captain or other person having the command thereof, unless some other duly qualified pilot shall with such consent come on board, and shall take the charge and conduct of such ship or vessel for the residue of the pilotage to be performed, every such pilot so quitting such ship or vessel shall forfeit for every such offence all pay or reward to which he might be entitled for having conducted or piloted such ship or vessel to Gravesend, Standgate Creek, or such parts of the Thames or Medway respectively as aforesaid, and shall also be subject to such other penalty or punishment as by virtue of any of the provisions of this act, or of the by-laws, rules, orders, regulations, and ordinances hereby directed to remain in force, or which may be made or established in pursuance hereof, any pilots shall be liable to for quitting a ship or vessel before she shall arrive at her place of destination."

Sect. 43. "That every pilot shall write his Christian and surname in the log-book of every master or other person having the command for the time being of any ship or vessel entering the port of London, and required to be piloted according to the directions of this act; and every pilot or other per-

PILOTS.

6 Geo. 4, c. 125.

How pilot-boats are to be distinguished.

Penalty.

Pilot carried off in any other boat to display a flag.

Pilots shall qualify themselves, and conduct ships into and out of Ramsgate and other harbours.

Penalty for refusal.

Pilots quitting ships in the Thames or Medway, without consent, before arrival at the place to which bound, to forfeit, pay, and be liable to penalty.

Pilot to write his name in log-book, and same to be inserted in report of ships

PILOTS.

6 Geo. 4, c. 126.
entering the port
of London, and
reported daily to
the Trinity House,
and monthly to
the lord warden
of the Cinque
Ports.

Monthly reports
to be made of
vessels clearing
outwards.

Penalty.

Penalty on mas-
ters of vessels
piloted by any
other than a
licensed pilot.

Masters of certain
ships may pilot
same so long as
not assisted by
unlicensed per-
sons.

Masters not liable
to penalties for
employing un-
licensed persons
whilst ship in
distress.

son inserting a false name, shall forfeit the sum of 20*l.*; and the master or other person having the command of such ship or vessel shall, in making the entry or report of such ship or vessel inwards, insert or cause to be inserted in such entry or report the name or names of the pilot or pilots employed or engaged to pilot such vessel into the said port, which insertion shall be made in the said entry or report (without fee or reward) by the proper officer of the customs, who shall report the same to the corporation of the Trinity House daily, and to the lord warden of the Cinque Ports monthly; and such officer is hereby authorized and required to reject such entry or report, unless and until the name or names of the pilot or pilots so employed or engaged as aforesaid, shall be inserted or notified to such officer for insertion in such entry or report as aforesaid; and also that the principal searcher or clearing officer of the customs at Gravesend shall demand and take the name or names of the pilot or pilots of all ships or vessels clearing outwards from the port of London, and shall transmit monthly lists of such names to the said corporation of Trinity House, on pain of forfeiting a sum not exceeding 10*l.*, nor less than 5*l.*, to be paid by each and every of the persons aforesaid, who shall neglect to comply with any of the foregoing regulations."

Sect. 58. "That every master of any ship or vessel who shall act himself as a pilot, or who shall employ or continue employed as a pilot any unlicensed person, or any licensed person acting out of the limits for which he is qualified, or beyond the extent of his qualification, after any pilot licensed and qualified to act as such, within the limits in which such ship or vessel shall then actually be, shall have offered to take charge of such ship or vessel, or have made a signal for that purpose, shall forfeit for every such offence double the amount of the sum which would have been legally demandable for the pilotage of such ship or vessel, and shall likewise forfeit for every such offence an additional penalty of 5*l.* for every fifty tons' burthen of such ship or vessel, if the corporation of Trinity House of Deptford Strond, as to cases in which pilots licensed by or under the said corporation shall be concerned, or the said lord warden for the time being, or his lieutenant for the time being, as to cases in which the Cinque-Port pilots shall be concerned, shall think it proper that the person prosecuting should be at liberty to proceed for the recovery of such additional penalty, and certify the same in writing."

Sect. 59. "That, for and notwithstanding any thing in this act contained, the master of any collier, or of any ship or vessel trading to Norway, or to the Cattegat or Baltic, or round the North Cape, or into the White Sea, on their inward or outward voyages, or of any constant trader inwards, from the ports between Boulogne inclusive and the Baltic (all such ships and vessels having British registers, and coming up either by the North Channel, but not otherwise); or of any Irish trader using the navigation of the rivers Thames and Medway; or of any ship or vessel employed in the regular coasting trade of the kingdom; or of any ship or vessel wholly laden with stone from Guernsey, Jersey, Alderney, Sark, or Man, and being the production thereof; or of any ship or vessel not exceeding the burthen of sixty tons, and having a British register, except as hereinafter provided; or of any other ship or vessel whatever, whilst the same is within the limits of the port or place to which she belongs, the same not being a port or place in relation to which particular provision hath heretofore been made by any act or acts of Parliament, or by any charter or charters for the appointment of pilots, shall and may lawfully, and without being subject to any of the penalties by this act imposed, conduct or pilot his own ship or vessel when and so long as he shall conduct or pilot the same without the aid or assistance of any unlicensed pilot, or other person or persons, than the ordinary crew of the said ship or vessel."

Sect. 61. "That nothing in this act contained shall extend, or be construed to extend, to subject the master or owner of any ship or vessel to any of the penalties of this act, for employing any person or persons whomsoever as a pilot or pilots in and for the assistance of such ship or vessel whilst the same shall be in distress, or in consequence thereof, or under any circumstances which shall have rendered it necessary for such owner or master to avail himself of the best assistance which at the time could be procured; any thing herein contained to the contrary thereof in anywise notwithstanding."

Sect. 62. "That nothing in this act contained shall extend, or be construed to extend, to subject to any penalty the master or mate of any ship or vessel, being the owner or a part owner of such ship or vessel, and residing at Dover, Deal, or the Isle of Thanet, for conducting or piloting such his own ship or vessel from any of the places aforesaid up or down the rivers Thames or Medway, or into or out of any port or place within the jurisdiction of the Cinque Ports."

Sect. 63. "That when any ship or vessel shall have been brought into any port or ports in England by any pilot duly licensed, nothing in this act contained shall extend, or be construed to extend, to subject to any penalty the master or mate, or other person belonging to such ship or vessel, and having the command thereof, or, if in ballast, any person or persons appointed by any owner, or master or agent of the owner thereof, for afterwards removing such ship or vessel in such port or ports, for the purpose of entering into or going out of any dock, or for changing the moorings of such ship or vessel."

Sect. 64. "That every master, or other person, having the command for the time being of any ship or vessel, who shall report, or be privy or consenting to any other person's reporting, to any pilot taking the charge of such ship or vessel, a false account of the draught of water of such ship or vessel, shall forfeit and pay for every such offence, in addition to the payment of the full rate of pilotage to the pilot entitled thereto, double the amount of such pilotage; and any master or other person, having the command for the time being of any ship or vessel, or having any interest, share, or property therein, who shall fraudulently alter any marks on the stem or stern post thereof, denoting the draught of water, or shall be privy and consenting thereto, shall, for any such offence, forfeit and pay the sum of 600*l*."

Sect. 66. "That no person shall take charge of any ship or vessel, or in any manner act as a pilot, or receive any compensation for acting as a pilot, until his license shall have been registered by the principal officers of the custom-house of the place at or nearest to which such pilot shall reside (which officers are hereby required to register the same, without fee or reward), nor without having his license at the time of his so acting in his personal custody, and producing the same to the master of any ship or vessel, or other person, who shall be desirous of employing him as a pilot, or to whom he shall offer his services, on pain of forfeiting a sum not exceeding 30*l*., nor less than 10*l*., for the first offence; and for the second, or any subsequent offence, a sum not exceeding 50*l*., nor less than 30*l*.; and, upon further pain, as to any person licensed, as aforesaid, of forfeiting his license, or being suspended from acting as a pilot, by and at the discretion of the corporation or other authority from which such pilot's license was derived, either for the first, second, or any subsequent offence."

Sect. 67. "That every pilot, licensed or to be licensed, as aforesaid, shall, at all times when thereunto required, produce or deliver and yield up his license to the corporation, or other authority, by which the same was granted; and that on the death of any such pilot, his executors or administrators, or one of them, or the person or persons to whose hands the license of such deceased pilot shall come, shall, without wilful delay, transmit such license to the corporation or other authority by which the same was granted, on pain of such pilot, executor, administrator, or other person, forfeiting for any neglect therein a sum not exceeding 20*l*., nor less than 40*l*."

Sect. 68. "That, from and after the passing of this act, if any pilot, licensed by virtue of this act, or otherwise duly licensed, shall keep, or be concerned in keeping, either by himself or any agent or servant, or other person, or shall in any way be interested in the keeping of, any public-house, or tavern, or place of public entertainment, or in the selling of any wine or spirituous liquors, or tobacco or tea (unless such pilot shall have kept, or been concerned or interested in the same, before the 1st day of March, 1806, and shall be duly authorized by the corporation, or other authority under which such pilot shall act, to continue in such business or employment; or if any pilot, licensed as aforesaid, shall be convicted of any offence against any law or laws relating to the revenues of customs or excise, or shall be concerned in, or shall wilfully connive

PILOTS.

6 Geo. 4, c. 125.
Master or mate being owner or part owner, and residing at Dover, &c., may pilot his own ship up or down the Thames or Medway.

Ships brought into any port by pilots, may be removed by the master, &c., for certain purposes.

Penalty for reporting to pilots a false account of a vessel's draught of water, or altering the marks denoting such draught.

No pilot shall act until his license has been registered, nor without producing it.

Penalty.

Licenses to be delivered up when required, and on death of a pilot his license shall be returned to the corporation or authority that granted it.

Penalty.

Pilots keeping public-houses, &c. (unless authorized), or offending against the revenue laws, &c., shall forfeit their licenses or be suspended.

PILOTS.

6 Geo. 4, c. 123.

at, any indirect practices or frauds against the revenues of customs or excise, or shall procure, abet, connive at, or participate in, any destruction, spoil, or concealment, fraud, exaction, or corrupt practice, relating to ships or vessels, of persons in distress at sea, or by shipwreck, or relating to the tackle, apparel, or furniture, or the cargoes of such ships or vessels, or relating to the crew or passengers belonging thereto, or the monies, goods, or chattels of any of them, then and in every such case every pilot shall (over and above all other punishments, mulcts, and penalties for such offences), be adjudged to forfeit his license, or shall be suspended from acting as a pilot, by and at the discretion of the corporation, or other authority from which such pilot's license was derived."

Pilots suspended or adjudged to have forfeited their licenses, liable to penalty for acting.

Sect. 69. "That if any person, suspended or adjudged to have forfeited his license as a pilot, shall, during the time of such suspension, or after such adjudication, take upon himself to conduct any ship or vessel as a pilot, such person shall be liable to all such penalties, to be recovered and applied in like manner and form as are provided by this act, against any person who shall pilot or conduct any ship or vessel without ever having been licensed as a pilot."

Licensed pilots may supersede unlicensed ones.

Sect. 70. "That it shall be lawful for any licensed pilot within the limits of his license, and the extent of his qualification therein expressed, to supersede in the charge of any ship or vessel any person not licensed to act as a pilot, or not licensed so to act within such limits, or acting beyond the extent of his qualification: and every person assuming or continuing in the charge or conduct of any ship or vessel, without being a duly licensed pilot, or without being duly licensed to act as a pilot within the limits in which such ship or vessel shall actually be, or beyond the extent of his qualification, as expressed in his license, after any pilot, duly licensed and qualified to act in the premises, shall have offered to take charge of such ship or vessel, shall forfeit for every such offence a sum not exceeding 50*l.*, nor less than 20*l.*"

Penalty on unlicensed persons acting as pilots, after a proper pilot shall have offered to take charge of the ship.

Sect. 72. "That every pilot licensed or to be licensed as aforesaid, who shall, when not actually engaged in his capacity of pilot, refuse or decline or wilfully delay to go off to, or on board of, or to take charge of any ship or vessel wanting a pilot, and within the limits specified in his license, and of which he shall be qualified to take charge, upon the usual signal for a pilot being displayed from such ship or vessel, or upon being required so to do by the captain, or by any commissioned or warrant officer of or belonging to such ship or vessel (if the same shall be in his majesty's service), or by the master, or other person having the command of such ship or vessel, or by any person or persons interested therein as principal or agent (if the same shall not be in his majesty's service), or upon being required so to do in either of the cases aforesaid, by any officer of the corporation or society to which such pilot shall belong, or by any principal officer of his majesty's customs (unless in any of the cases aforesaid), it shall be unsafe for such pilot to obey such signal, or comply with such requisition, or he shall be prevented from so doing by illness or other sufficient cause to be shown by him in that behalf; and every pilot licensed or to be licensed as aforesaid, who shall on any frivolous pretext quit any ship or vessel, or decline the piloting thereof, after he has been engaged to pilot the same, or after going alongside thereof, before the service shall have been performed for which he was hired, and without leave of the captain of such ship or vessel (if in his majesty's service), or of the master or other person having the command of such ship or vessel (if not in his majesty's service), shall forfeit for every such offence any sum not exceeding 100*l.*, nor less than 10*l.*, and shall be liable to be dismissed from being a pilot, or suspended from acting as such, at the discretion of the corporation or other authority by whom such pilot was licensed."

Penalty on pilots who shall decline to go off to or take charge of vessels, or who shall quit the same.

Penalty on pilots for employing or requiring the employment of any boat, &c., beyond what is necessary, thereby to increase expense.

Sect. 73. "That in case any pilot, licensed or to be licensed as aforesaid, shall employ or make use of, or shall compel or require any person having the command or charge of any ship or vessel, to employ or make use of any boat, anchor, cable, hawser, or any other matter or thing in or for the service or pretended service of such ship or vessel beyond what shall actually and *bonâ fide* be necessary and proper for the use thereof, with intent thereby to enhance or increase the charge or expense of pilotage or pilot assistance of such ship or

vessel, whether for the gain and emolument of such pilot, or for the gain or emolument of any other person or persons whomsoever, then and in every such case the person so offending shall forfeit and pay a sum not exceeding 50*l.*, nor less than 10*l.*, and shall also be liable to be deprived of his license, or suspended from acting as a pilot, at the discretion of the corporation or other authority by whom he was licensed."

Sect. 74. "That in case any pilot, licensed or to be licensed as aforesaid, shall lend his license to any unlicensed person to assist him in acting or claiming to act as a licensed pilot, or in case any such licensed pilot, or any person not being a pilot, but acting under pretext or colour of being a pilot, shall by drunkenness render himself incapable of conducting any ship or vessel, or shall wilfully or negligently run any ship or vessel on shore, or lose or injure the same, or the tackle or furniture thereof, or shall wilfully and knowingly conduct, lead, decoy, or betray any ship or vessel into danger in any manner not already provided against by any statute or statutes, or shall unnecessarily or improperly cut any cable or cables of or belonging to any ship or vessel, or cause or procure the same to be cut unnecessarily and improperly; or if any such person shall by wilful misrepresentation of any circumstances upon which the safety of any ship or vessel shall appear materially to depend, for the time being, obtain or endeavour to obtain the charge and conduct of any such ship or vessel, then and in every such case the person so offending, or who shall aid in, procure, abet, or connive at the committing of any such offence or offences, shall, besides being liable to damages at the suit of the party grieved, forfeit and pay a sum not exceeding 100*l.* nor less than 20*l.*; and if the person so offending shall be a pilot, he shall also be liable to be deprived of his license, or suspended from acting as a pilot, at the discretion of the corporation or other authority by whom his license was granted."

Penalty for lending license, and for drunkenness, and for conducting any vessel into danger, or injuring the same, or obtaining charge thereof by misrepresentation.

Sect. 75. "And whereas the dock-master or dock-masters appointed by divers dock companies in the port of London, under and by virtue of divers acts of Parliament, have power and authority to direct the mooring and unmooring, moving or removing of ships and other vessels, within certain distances from the entrances out of the river Thames into the docks of such companies respectively; be it therefore enacted, that from and after the passing of this act, if any pilot having the charge or direction of any ship or vessel within such distances from the respective entrances into the said docks respectively from the river Thames, and either intended to go into or having recently come out of the docks of the said companies respectively, shall neglect or refuse to obey such orders or directions as shall or may from time to time be given to such pilot by the said dock-master or dock-masters respectively, under and by virtue of and agreeably to the powers vested in him and them by any act or acts of Parliament, touching or relating to the mooring, unmooring, moving, or removing of such ships or vessels so being under the charge or direction of such pilot as aforesaid, then and in every such case, every pilot so offending shall forfeit and pay a sum not exceeding 50*l.* nor less than 20*l.*; and every such pilot shall be liable to be dismissed from being a pilot, or suspended from acting as such, at the discretion of the corporation, or other authority by whom such pilot was licensed."

Penalty on pilots for not obeying the orders of dock-masters.

Sect. 76. "That all fines, penalties, or forfeitures hereinbefore or hereinafter imposed by this act, or by any of the by-laws, rules, orders, regulations, or ordinances hereby directed to remain in force, or hereafter to be made under the authority of this act, which shall exceed the sum of 20*l.* (the manner of levying whereof shall not by this act be otherwise expressly provided for), and likewise all fines, penalties, or forfeitures imposed as aforesaid (the manner of levying which shall not by this act be otherwise expressly provided for), in cases where, the lowest penalty recoverable not being greater than 20*l.*, and the largest penalty recoverable being greater than 20*l.*, the party prosecuting shall proceed in respect thereof for a sum greater than 20*l.*, with the written consent of the corporation of Trinity House of Deptford Strand, or of the said lord warden or his lieutenant for the time being respectively (as the case may be), shall and may be recovered with full costs of suit, by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, to be

How penalties above 20*l.* may be recovered.

PILOTS.

6 Geo. 4, c. 125.

commenced within twelve calendar months next after such offence or offences shall be committed, or within such other time as is hereinafter in that behalf directed; the venue in which said action, bill, plaint, or information shall and may, at the option of the plaintiff or informant, be laid, and the said action, bill, plaint, or information tried either in the county of Middlesex or the city of London, or else in such county or place wherein the offence or offences shall have been committed, and no essoin, protection, wager of law, or any more than one imparlance, shall be allowed; and in any such case or cases it shall be lawful to sue for the largest penalty or penalties recoverable in that behalf, and the jury giving the verdict shall and may award either such largest penalty or penalties, or any other smaller sum or sums of money, not less than the sum specified as the lowest penalty recoverable in that behalf."

How penalties not exceeding 20*l.* may be recovered.

Sect. 77. "That all fines, penalties, or forfeitures hereinbefore or hereinafter imposed by this act, or by any of the by-laws, rules, orders, regulations, or ordinances hereby directed to remain in force, or hereafter to be made under the authority of this act, and which shall not exceed 20*l.* (the manner of levying whereof shall not by this act be otherwise expressly provided for); and likewise all fines, penalties, or forfeitures imposed as aforesaid (the manner of levying which shall not by this act be otherwise expressly provided for), in cases where the lowest penalty recoverable, not being greater than 20*l.*, and the largest penalty recoverable being greater than 20*l.*, the party prosecuting shall proceed in respect thereof for any sum not exceeding 20*l.*, with such written consent as aforesaid, shall and may be levied and recovered within six calendar months after the offence or offences committed, or within such other times as is hereinafter in that behalf directed, before any justice or justices of the peace for the county, city, division, or place where the offence or offences shall be committed; or if committed by any pilot, then before any justice or justices of the peace for the county, city, division, or place aforesaid, or before any justice or justices of the peace, or any magistrate or magistrates of the city, town, or port to which such pilot shall belong; or if committed by any owner or master of any ship or vessel, before any justice or justices of the peace for the county, city, division, or place where the offence or offences shall have been committed, or before any justice or justices of the peace, or any magistrate or magistrates of the county, city, town, or port at which such owner or master shall reside, or to which the ship of such owner or master shall belong; or if committed on any part of the sea from Orfordness to the mouth of the river Thames, or from Dungeness to the mouth of the river Thames, or upon the rivers Thames or Medway, then only before some justice or justices of the peace of the counties of Kent, Surry, Essex, or Middlesex, or before some magistrate or magistrates of the city of London; and all and every the justice and justices, magistrate and magistrates aforesaid, is and are hereby empowered and required, upon complaint to him or them made, to grant a warrant to bring before him or them such offender or offenders at the time or place in such warrant specified; and if on conviction of the offender or offenders respectively on his, her, or their confession, or on the evidence of any one or more credible witness or witnesses upon oath, (which oath such justice or justices, magistrate or magistrates, is and are hereby empowered to administer), such fine, penalty, or forfeiture shall not be forthwith paid, it shall and may be lawful to and for such justice or justices, magistrate or magistrates, to levy the penalty by distress, and for want of distress to commit every such offender or offenders to the common gaol or house of correction for the county, city, or place where such offender or offenders shall be convicted, there to remain without bail or mainprize for any time not exceeding six calendar months, nor less than twenty-one days, unless such fine, penalty, or forfeiture, and all reasonable charges attending the recovery thereof, shall be sooner paid: provided always, that in case the said respective periods of twelve calendar months and six calendar months, or either of them, within which fines, penalties, or forfeitures are to be sued for as aforesaid, shall in any case or cases elapse and run out before any action or prosecution hereby authorized and directed shall have been commenced for the recovery of such fines, penalties, or forfeitures; and if it shall in manner hereinafter mentioned be made to appear, as soon after a,

the circumstances of the case shall reasonably admit, that the commencement of the action or prosecution has been delayed by reason of the absence of any party or parties, whether offending or complaining, or by the absence of any necessary witness or witnesses, then upon such circumstances being stated by affidavit in writing, made before any judge of any of his majesty's courts of record at Westminster, it shall thereupon be lawful for any judge or judges to order or authorize the commencement of such action or prosecution within such further time as such judge shall think fit to limit in that behalf; and in such case the action or actions, prosecution or prosecutions, so ordered or authorized, shall and may be commenced and prosecuted within the time or respective times so limited, in like manner and with the like effect in all respects as if such prosecutions had been commenced and prosecuted within the said respective periods of twelve months and six months hereby limited."

Sect. 78. "That in case any person against whom a warrant shall be issued by any justice or justices, magistrate or magistrates, before or after any conviction for any offence against this act, shall escape, go into, or reside, or be in any other county, riding, division, city, liberty, town, or place not within the jurisdiction of the justice or justices, magistrate or magistrates, granting such warrant, it shall be lawful for any justice of the peace of the county, riding, division, city, liberty, town, or place into which such person shall escape, either before or after conviction, and they and every of them are hereby required upon proof made upon oath of the hand-writing of any justice or justices, magistrate or magistrates, granting such warrant, to indorse his or their name or names on such warrant, and the same when so indorsed shall be sufficient authority to all peace-officers to execute such warrant in such other county, riding, division, city, town, or place out of the jurisdiction of the justice or justices granting the said warrant; and any justice or justices respectively, on the offender being apprehended and brought before him or them, within their respective jurisdictions, may proceed to hear and determine the complaint, in the same manner as if it had originally arisen within his or their respective jurisdictions, or may direct the offender to be carried, and such offender shall accordingly, in that case, be carried to or before the justice or justices who granted the original warrant, to be dealt with according to law."

Sect. 79. "That if any person who shall be summoned as a witness upon any complaint or information before any justice or justices of the peace, magistrate or magistrates, shall refuse or neglect to appear at the time by such summons appointed, having no just cause for such neglect or refusal, it shall be lawful for such justice or justices, magistrate or magistrates, on proof of such summons having been served, and of a tender of reasonable expenses having been made to such person on his being served with such summons, to issue a warrant, under his hand and seal or their hands and seals, to bring such person before him or them; and if on appearance, or on being brought before any justice or justices, magistrate or magistrates, such person shall refuse to be examined on oath concerning the premises, without having some just cause for such refusal, it shall be lawful for such justice or justices, magistrate or magistrates, by warrant under his hand and seal, or their hands and seals, to commit such person to the house of correction of the county, city, division, or place where any such person shall be apprehended, there to remain for any time not exceeding six weeks, nor less than ten days, as any such justice or justices, magistrate or magistrates, shall direct."

Sect. 80. "That every person, who in any examination upon oath, under the provisions of this act, shall wilfully give false testimony, or a false account of the matter sworn to by such person, shall be liable to be prosecuted for the same by indictment, and if duly convicted of false swearing in the premises, shall be subject and liable to such punishments, disqualifications, and disabilities, as any person would be subject or liable to for wilful and corrupt perjury, in any other case by the laws and statutes of the realm."

Sect. 81. "That all and every justice and justices of the peace, magistrate or magistrates, before whom any person shall be convicted of any offence against this act, or against any by-law, rule, regulation; or order, hereby directed to remain in force, or hereafter to be made under the authority

PILOTS.

6 Geo. 4, c. 125.

Justice of any county into which an offender may escape, may indorse the original warrant, which shall authorize the peace officers to execute it.

Witnesses not appearing may be committed to the house of correction.

Persons convicted of giving false testimony guilty of perjury.

Convictions may be drawn up in the following form.

PILOTS.

6 Geo. 4, c. 125.

hereof, shall and may cause the conviction to be drawn up according to the following form, or in words to the like effect: *videlicet*—

"Be it remembered, that on the _____ day of _____, in the year of our Lord _____, A. B. is convicted before me [or, us], one [or, two, as the case may be] of his majesty's justices of the peace for the _____ [here specify the offence, and the time and place when and where committed, as the case may be], contrary to an act passed in the sixth year of the reign of King George the Fourth, intituled [here insert the title of this act]; and I [or, we] do adjudge that the said _____ [insert the offender's name] hath therefore forfeited the sum of [here insert the penalty]. Given under my hand and seal [or, our hands and seals], the day and year first above written."

And no *certiorari*, or other writ or process for the removal of any such conviction or any proceedings thereon, into any of his majesty's courts of record at Westminster, shall be allowed or granted."

Appeal may be made to the quarter sessions, who may finally determine the matter and award costs.

Sect. 82. "That it shall and may be lawful to and for any person or persons so convicted by any justice or justices of the peace, magistrate or magistrates before mentioned, of any offence or offences against this act, or against any by-law, rule, order, regulation, or ordinance hereby directed to remain in force, or hereafter to be made under the authority hereof, within three calendar months next after such conviction, to appeal to the justices of the peace assembled at the general quarter sessions holden for the county, city, or place where the matter of appeal shall arise, first giving ten days' notice of such appeal to the person or persons appealed against, and of the matter thereof, and within fourteen days next after such notice entering into a recognizance before some justice of the peace for such county, city, or place, with sufficient sureties conditioned to try such appeal, and for abiding the determination of the court therein; and such justices so assembled shall, upon due proof of such notice having been given, and recognizance entered into, hear and determine the matter of such appeal, and may either confirm or quash and annul the said conviction, and award such costs to either party as to them shall seem just and reasonable (and the decision of the said justices therein shall be final, binding, and conclusive); and no proceeding to be had or taken in pursuance of this act shall be quashed or vacated for want of form only, or be removed by *certiorari* or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster, or elsewhere; any law or statute to the contrary thereof in anywise notwithstanding."

Proceedings not to be quashed for want of form, or removed by *certiorari*.

Application of penalties.

Sect. 83. "That one-third of all fines or penalties to be levied in pursuance of this act, or under any by-law, rule, order, regulation, or ordinance hereby directed to remain in force, or hereafter to be made under the authority of this act, by whomsoever incurred (save and except such fines or penalties, the application whereof shall by this act be otherwise expressly provided for), shall go to the person who shall inform or sue for the same, and the remainder of all such fines or penalties shall be carried to and applied to the purposes of the said fund belonging to the said corporation of Trinity House, called 'The Pilots' Fund,' in case such fines or penalties shall be incurred by pilots licensed by the said corporation, or by any person or persons in relation to any matters wherein such last-mentioned pilots shall be in anywise concerned; and in case such fines or penalties shall be incurred by pilots belonging to the fellowship of the Cinque Ports, or by pilots under any other jurisdictions or authorities, or by any other person or persons in relation to any matters wherein such pilots respectively shall be in anywise concerned, then the remaining two-thirds of such last-mentioned fines or penalties shall be carried to and applied to the purposes of such fund as hath been or shall be created for the relief of such indigent pilots belonging to the said fellowship, or such other jurisdictions or authorities respectively, as shall become incapable of discharging their duty from advanced age, or from any accident or infirmity."

Limitation of actions.

Sect. 84. "That if any suit or action shall be brought or prosecuted against any person or persons for anything done or to be done in pursuance of this act, in every such case the action or suit shall be commenced within six calendar months next after the fact committed, and not otherwise, and shall be laid or brought in the county, city, or place where the cause of action arises, and not

elsewhere; and the defendant or defendants in such action or suit may plead the general issue, not guilty, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act; and if it shall appear so to be done, or if any such action or suit shall be brought after the time limited for bringing the same, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuited, or suffer a discontinuance of his or their action or actions, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in other cases of law."

Sect. 85. "That all acts of Parliament, and all clauses, provisions, powers, authorities, regulations, penalties, and forfeitures contained in any act, which in any manner relate to the regulation of pilots or pilotage within any river, port, or harbour, or within any local limits specified in any such act, clause, or provision, and in which any reference is made to the said acts passed in the forty-eighth and fifty-second years of the reign of his said late majesty King George the Third as aforesaid, or either of them, or in any manner apply thereto, or vary or alter any of the provisions thereof as to pilots or pilotage within any such limits, shall continue in full force, notwithstanding the repeal of the said acts of the forty-eighth and fifty-second years aforesaid; and shall be deemed to refer and apply to this act, and shall be so construed as if the same were particularly referred to in this act; anything in this act to the contrary notwithstanding."

Sect. 86. "That nothing in this act contained shall extend or be construed to extend to any ships or vessels belonging to his majesty, his heirs, and successors, as to their being compelled to take pilots on board."

Sect. 87. "That nothing herein contained shall extend to affect or impede the jurisdiction of the court of Loadmanage, as far as respects the pilots appointed under the authority of the said court; and provided also, that nothing in this act contained shall extend or be construed to extend to affect or impair the jurisdiction of the High Court of Admiralty."

Sect. 88. "That nothing in this act contained shall extend or be construed to extend to prejudice or take away any right, property, authority, or jurisdiction of the mayor of the city of London, or of the mayor and commonalty and citizens of the city of London, to, in, and upon the river Thames aforesaid."

Sect. 89. "That nothing in this act contained shall extend or be construed to extend to the taking away, abridging, defeating, impeaching, or interrupting of any grants, liberties, franchises, or privileges heretofore granted by any charters or acts of Parliament to the pilots of the Trinity House of the town of Kingston-upon-Hull, or the Trinity House of Newcastle-upon-Tyne, or to give any authority to the corporation of the Trinity House of Deptford Strond, within any ports or districts having separate jurisdictions in matters of pilotage, under any act of Parliament or charter, or to alter or repeal any provisions contained in any act or acts of Parliament relating to the pilots of any ports or districts in relation to which particular provision shall have been made in any act or acts of Parliament as to the pilots or pilotage, or to the pilotage within the limits prescribed by any act or acts of Parliament relating to pilotage for such ports, or to the burthen of vessels navigating to or from such ports."

Sect. 90. "That all provisions, clauses, penalties, and forfeitures, contained in an act passed in the eighth year of the reign of Queen Elizabeth, or any other act or acts made and in force for the preservation of sea-marks and beacons, shall extend and be construed to extend to all vessels duly appointed to exhibit lights therein for the preservation of ships and vessels at sea, and to all persons removing, injuring, or destroying such vessels or lights, which offences may be laid and tried in any county in England."

Sect. 91. "That every person who shall ride by, make fast to, or remove, or wilfully run down, or run foul of any vessel, appointed or placed to exhibit lights, or any buoy or beacon belonging to the said corporation of Trinity House of Deptford Strond, or belonging to or placed by any other corporation

PILOTS.

9 Geo. 4, c. 125.
General Issue.

Treble costs.

Regulations in any act relating to pilotage in any river, &c., and which refer to the repealed statutes, to continue in force notwithstanding such repeal.

Act not to extend to ships belonging to his majesty.

Act not to affect the jurisdiction of the Court of Loadmanage, or of the High Court of Admiralty.

Act not to prejudice any right of the city of London.

Act not to affect any district having separate jurisdictions.

Provisions of former acts for preservation of sea-marks and beacons, to extend to all vessels appointed to exhibit lights, &c.

Penalty for riding by, &c., such vessels, or any buoy or beacon.

PILOTS.

6 Geo. 4, c. 125.

having lawful authority to place the same, shall, besides being liable to the expense of replacing or making good any damage occasioned thereby, forfeit for every such offence any sum not exceeding 50*l.*, nor less than 10*l.*, to be recovered by action of debt, bill, plaint, or information, in which no essoin, protection, privilege, wager of law, or more than one imparlance shall be granted or allowed; one-third of which said penalty shall go to the persons who shall inform or sue for the same, and the remainder of which said penalty shall go to the said corporation of Trinity House of Deptford Strond, or other the corporation to which such vessel, buoy, or beacon shall belong, or by which the same shall have been placed as aforesaid, as the case may be, to be applied to the charitable purposes of the said corporations respectively."

The act then gives the following schedules :—

SCHEDULE (A). See it *post*, 519.

SCHEDULE (B).

Oath to be taken by the Master and Wardens of the Society of Cinque-Port Pilots.

" I, A. B., do swear, that I will diligently and impartially examine and inquire into the capacity and skill of _____, in the art of piloting ships and vessels over the flats, and round the Long Sand Head, and up the rivers of Thames and Medway, and into Ramsgate, Dover, Sandwich, and Margate harbours, and also upon the coasts of Flanders and Holland; and will make true and speedy return thereof to the Lord Warden of the Cinque Ports for the time being, or his deputy, without favour, affection, fee, or reward. So help me God."

SCHEDULE (C).

Oath to be taken by Sub-Commissioners of Pilotage.

" I, A. B., do swear, that I will diligently and impartially examine into the capacity and skill of _____, in the art of piloting ships and vessels into the roadstead, port, or harbour, and upon the coasts following: videlicet [here describe the limits within which the person examined is intended to act as pilot]; and will make true and speedy return thereof to the corporation of Trinity House of Deptford Strond, without favour, affection, fee, or reward, other than such fee or reward as is allowed by the by-laws or regulations duly established in that behalf.

" So help me God."

SCHEDULES REFERRED TO IN THIS ACT.—SCHEDULE (A).
TABLE (A).—Table of the Rates of Pilotage to be demanded and received by Pilots, licensed by the Corporation of Trinity House of Deptford Strand, for Piloting Ships and Vessels within the Limits in the said Table mentioned.

FROM	TO	7 Feet and under.	8 Feet.	9 Feet.	10 Feet.	11 Feet.	12 Feet.	13 Feet.	14 Feet.	15 Feet.	16 Feet.	17 Feet.	18 Feet.	19 Feet.	20 Feet.	21 Feet.	22 Feet.	23 Feet and upwards.
The Sea, Orfordness, the Downs, Hoyle Bay, and <i>vice versa</i> ...	Nore or Warps.....	3 13 6	4 2 0	4 12 0	5 1 3	5 5 9	6 5 0	6 13 6	7 7 3	7 16 5	8 14 9	9 8 6	10 17 0	11 10 0	12 17 6	14 5 3	16 11 3	18 8 0
	Gravesend, Chatham, Blackstake.....	4 12 0	5 7 0	6 3 3	6 18 0	7 11 9	8 5 6	8 19 6	9 13 3	10 7 0	11 0 9	11 14 6	14 1 6	16 13 0	19 6 6	21 5 0	23 3 9	25 3 3
	Long Reach.....	4 16 6	5 12 3	6 8 0	7 2 6	7 18 3	8 14 9	9 8 6	10 0 0	10 16 3	11 10 0	12 3 6	15 9 0	18 11 9	21 5 0	23 0 0	24 10 9	26 13 6
	Woolwich or Blackwall.....	5 5 9	6 1 6	6 17 0	7 11 9	8 10 3	9 4 0	10 3 6	11 0 9	11 14 6	12 8 3	14 3 6	16 5 0	19 11 0	22 3 6	24 16 9	27 13 0	—
	Moortings or London Docks.....	5 16 0	6 9 9	7 3 6	7 17 3	8 19 6	9 13 3	10 11 6	11 0 9	12 8 3	14 3 6	17 0 0	19 11 0	22 3 6	24 16 9	27 13 0	—	—
The Nore or Warps, and <i>vice versa</i> ...	Gravesend, Standgate Creek, or Blackstake.....	1 18 0	2 3 3	3 7 0	3 20 6	3 19 0	3 0 3	3 11 9	3 16 6	4 2 9	4 10 3	5 1 3	5 16 0	6 8 9	7 14 6	8 14 0	9 13 3	10 12 6
	Long Reach or Chatham.....	2 00	3 16 6	3 15 3	3 19 0	3 9 0	3 16 3	4 2 9	4 7 0	4 13 9	5 5 0	5 16 0	6 15 3	7 3 6	8 13 3	9 12 6	10 11 3	11 10 9
	Woolwich or Blackwall.....	3 15 3	3 1 6	3 8 0	3 13 6	4 2 9	4 10 3	4 19 6	5 8 6	5 16 0	6 4 3	7 3 6	8 3 9	9 4 0	11 9 12 6	13 11 3	14 10 9	15 10 6
	Moortings or London Docks.....	3 4 6	3 10 9	3 17 3	4 2 9	4 16 6	5 5 0	5 16 0	6 4 3	6 13 6	7 2 6	8 1 0	9 4 0	11 9 12 6	13 11 3	14 10 9	15 10 6	16 10 6
	Long Reach.....	0 9 3	0 14 9	1 0 3	1 5 3	1 10 6	1 14 6	1 19 0	2 3 0	2 6 3	3 13 6	3 17 6	4 0 0	3 6 9	3 11 3	4 12 0	5 10 6	—
Gravesend Reach, and <i>vice versa</i> ...	Woolwich or Blackwall.....	1 3 0	1 7 6	1 12 3	1 16 0	2 4 3	2 13 6	3 2 6	3 11 0	3 18 3	4 5 6	4 13 9	5 1 3	6 4 3	7 11 9	8 19 6	9 13 3	—
	Moortings or London Docks.....	1 7 6	1 14 0	2 0 6	2 6 0	2 15 3	3 4 6	3 13 6	4 2 9	4 13 0	5 1 3	5 16 0	6 19 6	7 3 6	7 14 9	—	—	—
	Sheerness, Standgate Creek, or Blackstake.....	3 15 3	3 19 0	3 1 9	3 4 6	3 13 6	4 2 9	4 12 0	5 1 3	5 16 0	6 19 6	8 8 9	8 18 9	7 7 3	7 16 5	—	—	—
	Chatham.....	3 4 6	3 8 0	3 10 9	3 13 6	4 2 9	4 12 0	5 1 3	5 16 0	6 19 6	8 8 9	8 18 9	7 7 3	7 16 5	8 5 6	—	—	—
	Woolwich or Blackwall.....	0 18 6	1 2 0	1 4 0	1 7 6	1 10 9	2 0 0	2 15 3	3 4 6	3 13 6	4 2 9	4 12 0	5 1 3	5 16 0	6 19 6	8 5 6	9 4 0	—
Long Reach, and <i>vice versa</i> ...	Moortings or London Docks.....	1 7 6	1 11 3	1 14 0	1 16 9	2 0 0	2 15 3	3 4 6	3 13 6	4 2 9	4 12 0	5 1 3	5 16 0	6 19 6	8 5 6	9 4 0	—	—
	Sheerness, Standgate Creek, or Blackstake.....	3 4 6	3 8 0	3 10 9	3 13 6	4 2 9	4 12 0	5 1 3	5 16 0	6 19 6	8 8 9	8 18 9	7 7 3	7 16 5	8 5 6	9 14 9	—	—
	Chatham.....	3 13 6	3 17 3	4 0 0	4 2 9	4 12 0	5 1 3	5 16 0	6 19 6	8 8 9	8 18 9	7 7 3	7 16 5	8 5 6	9 14 9	—	—	—
	Moortings or London Docks.....	0 18 6	1 2 0	1 4 0	1 7 6	1 10 9	1 12 3	1 16 9	2 1 0	2 6 0	2 10 6	3 15 3	3 19 0	3 4 6	3 9 0	—	—	—
	Sheerness, Standgate Creek, or Blackstake.....	3 13 6	3 17 3	4 0 0	4 2 9	4 12 0	5 1 3	5 16 0	6 19 6	8 8 9	8 18 9	7 7 3	7 16 5	8 5 6	9 14 9	—	—	—
Chatham.....	Chatham.....	4 2 0	4 6 6	4 9 3	4 12 0	5 1 3	5 16 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 6	8 5 6	8 14 9	9 4 0	—	—	—

Ships not having British Registers are to pay One-fourth more than Ships having British Registers, except when such first-mentioned Ships shall be chiefly laden with Corn or other Provisions, or shall, by any Order of His Majesty's most Honourable Privy Council, be privileged to enter the Ports of this Kingdom, upon paying the same Duties of Tonnage as are paid by British Ships, in which Case such Ships and Vessels, not having British Registers, shall pay the like Rates of Pilotage only as are payable by Ships having British Registers.

For Half a Foot exceeding the above Draughts of Water, the medium Price between the Two Limits.—For intermediate Distances a proportionate Rate.

For removing a Ship or Vessel from Moorings into a Dry or Wet Dock :

For a Ship under 500 Tons	50 15 0
500 to 600	1 1 0
600 to 1000	1 11 6
above 1000	2 3 0

{ For a Boat of a Class carrying an Anchor of above 4 Cwt. with a corresponding Tow-Line - 2s 3 0 } Per Trip for the whole Distance from Gravesend to London; and in proportion for any Part of that Distance.

And for each Man's Service in those Boats, *at* per Tide.

SCHEDULE (A)—Continued.

TABLE (B).—A Table of the Rates of Pilotage to be demanded and received by Pilots licensed by the Lord Warden of the Cinque Ports and Constable of Dover Castle, or his Lieutenant for the time being, for Piloting Ships and Vessels within the Limits in the said Table mentioned.

FROM	TO	Under 7 Feet, 10 Feet.	From 7 Feet to 10 Feet.	11 Feet.	12 Feet.	13 Feet.	14 Feet.	15 Feet.	16 Feet.	17 Feet.	18 Feet.	20 Feet.	21 Feet.	23 Feet and upwards.
The Downs	Nore, Sheerness, Standgate Creek, Gravesend	£ s. d. 5 5 0 7 17 6	£ s. d. 8 13 3 9 9 0 10 4 9	£ s. d. 11 0 6 11 16 3	£ s. d. 12 12 0 13 7 9 16 1 3	£ s. d. 13 12 0 14 10 0 15 0 0 22 1 0 24 5 0	£ s. d. 14 10 0 15 0 0 16 1 3	£ s. d. 15 0 0 16 1 3 17 4 4 21 4 3 24 5 1	£ s. d. 16 1 3 17 4 4 21 4 3 24 5 1	£ s. d. 17 4 4 21 4 3 24 5 1	£ s. d. 18 5 1 26 9 2	£ s. d. 19 2 28 13 3	£ s. d. 20 3 30 17 4	£ s. d. 21 4
	Longreach	£ s. d. 5 16 0 8 8 6 9 9 0	£ s. d. 10 4 9 11 3 0 11 16 10 13 18 3	£ s. d. 12 1 6 13 17 3 14 0 4	£ s. d. 13 0 4 14 10 0 15 0 0 16 1 3	£ s. d. 14 10 0 15 0 0 16 1 3	£ s. d. 15 0 0 16 1 3 17 4 4 21 4 3 24 5 1	£ s. d. 16 1 3 17 4 4 21 4 3 24 5 1	£ s. d. 17 4 4 21 4 3 24 5 1	£ s. d. 18 5 1 26 9 2	£ s. d. 19 2 28 13 3	£ s. d. 20 3 30 17 4	£ s. d. 21 4	£ s. d. 22 5
	Blackwall or London	£ s. d. 6 12 3 8 19 6 10 4 9	£ s. d. 11 0 6 12 1 6 13 17 3 14 0 4	£ s. d. 12 1 6 13 17 3 14 0 4	£ s. d. 13 0 4 14 10 0 15 0 0 16 1 3	£ s. d. 14 10 0 15 0 0 16 1 3	£ s. d. 15 0 0 16 1 3 17 4 4 21 4 3 24 5 1	£ s. d. 16 1 3 17 4 4 21 4 3 24 5 1	£ s. d. 17 4 4 21 4 3 24 5 1	£ s. d. 18 5 1 26 9 2	£ s. d. 19 2 28 13 3	£ s. d. 20 3 30 17 4	£ s. d. 21 4	£ s. d. 22 5
	Gravesend	£ s. d. 2 6 2 3 17 0 4 6 3	£ s. d. 4 10 0 5 10 3 6 1 3 6 12 3	£ s. d. 5 10 3 6 1 3 6 12 3	£ s. d. 6 1 3 6 12 3 7 3 3 7 14 4 8 5 4	£ s. d. 7 3 3 7 14 4 8 5 4	£ s. d. 8 5 4 9 7 4	£ s. d. 9 7 4	£ s. d. 10 7 4	£ s. d. 11 7 4	£ s. d. 12 7 4	£ s. d. 13 7 4	£ s. d. 14 7 4	£ s. d. 15 7 4
Standgate Creek														

From the several Rates mentioned in this Table (B.) there shall be deducted 5 per Cent. when the number of Cinque-Port Pilots shall be reduced to 120.

Ships not having British Registers are to pay One Fourth more than Ships having British Registers; except when such first-mentioned Ships shall be chiefly laden with Corn, or other Provisions, or shall, by any Order of his Majesty's most Honourable Privy Council, be privileged to enter the Ports of this Kingdom, upon paying the same Duties of Tonnage as are paid by British Ships; in which case, such Ships and Vessels not having British Registers shall pay the like Rates of Pilotage only as are payable by Ships having British Registers.

For Half-a-Foot exceeding the above Draughts of Water, the medium Price between the Two Limits.

For Intermediate Distances, a proportionate Rate.

For putting a Pilot on board, and for Pilotage of Ships and Vessels to the Anchorage in the Downs.	60 Tons, and under 150.	150 Tons, and under 250.	250 Tons, and under 400.	400 Tons, and under 600.	600 Tons, and upwards.
From off the Downs to off Folkestone; the Church bearing N. N. W. by Com. pass	£ s. d. 2 0 0 3 0 0 3 10 0	£ s. d. 3 0 0 4 0 0 4 5 0	£ s. d. 4 0 0 5 0 0 5 5 0	£ s. d. 5 0 0 6 0 0 6 5 0	£ s. d. 6 0 0 7 0 0 7 5 0
From off Folkestone to the South Foreland, the Lights in one	£ s. d. 1 10 0 2 0 0 2 10 0	£ s. d. 2 0 0 3 0 0 3 10 0	£ s. d. 3 0 0 4 0 0 4 5 0	£ s. d. 4 0 0 5 0 0 5 5 0	£ s. d. 5 0 0 6 0 0 6 5 0
From off the South Foreland to the Downs	£ s. d. 1 5 0 1 10 0 1 10 0	£ s. d. 2 0 0 3 0 0 3 10 0	£ s. d. 3 0 0 4 0 0 4 5 0	£ s. d. 4 0 0 5 0 0 5 5 0	£ s. d. 5 0 0 6 0 0 6 5 0

• When the pilot is put on board by a boat from the shore, one-seventh to the pilot, and the remainder six-sevenths to the boat and crew.

For a Boat of a Class carrying an Anchor of above 4 Cwt., with a Ditto Ditto 3 Cwt. 1 1 0 in proportion for any Part of that Distance. And for each Man's Service in those Boats, 8s. per Tide.

† Sic in printed act, *sed quæra*.

IX. *Forms, List of.*

- COMMITMENT on 7 & 8 Geo. IV. c. 30, s. 9, for setting Fire to or Destroying a Ship, (No. 1.)—INDICTMENT for a like Offence, (No. 2.)
- COMMITMENT on like Act, for setting Fire to or Destroying a Ship, to prejudice Underwriters, (No. 3.)—INDICTMENT for a like Offence, (No. 4.)
- COMMITMENT on 7 & 8 Geo. IV. c. 30, s. 10, for Damaging a Ship otherwise than by Fire, with intent to Destroy it, (No. 5.)—INDICTMENT for a like Offence, (No. 6.)
- COMMITMENT on 7 & 8 Geo. IV. c. 30, s. 11, for doing an Act tending to the Loss of a Ship in Distress, (No. 7.)
- COMMITMENT on like Act, for Destroying part of a Ship, &c., in Distress, or Goods of it, (No. 8.)—INDICTMENT for a like Offence, (No. 9.)
- COMMITMENT on like act, for impeding a Person saving his Life from a Shipwreck, (No. 10.)—INDICTMENT for a like Offence, (No. 11.)
- COMMITMENT on 1 & 2 Geo. IV. c. 75, s. 11, for Injuring Buoys, &c., of a Ship, (No. 12.)
- INFORMATION on 6 Geo. IV. c. 110, against Master of Ship, for detaining a Certificate of Registry, (No. 13.)—CONVICTION, (No. 14.)
- INFORMATION, &c., on 4 Geo. IV. c. 88, s. 1, against Master of Ship under 200 tons' burthen, for carrying more than twenty Passengers between Great Britain and Ireland without a License, (No. 15.)

(No. 1.)

Commencement as usual, as *ante*, p. 71, (No. 1.) *on, &c., a certain ship and vessel called the* , *whereof A. B. was the owner, unlawfully, maliciously, and feloniously, did set fire to and destroy [or, destroy]; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end].* Commitment for setting fire to or destroying a ship, on 7 & 8 Geo. 4, c. 30, s. 9, (a)

(No. 2.)

Admiralty of England: (b) The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., with force and arms, a certain ship and vessel called the , *upon the high sea then being, and whereof one A. B. was then and there the owner, and within the jurisdiction of the Admiralty of England, unlawfully, maliciously, and feloniously, did set fire to and destroy [or, destroy]; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. [Add other counts, as the case may suggest.]* Indictment for a like offence. (a)

(No. 3.)

Commencement as usual, as *ante*, p. 71, (No. 1.) *on, &c., a certain ship and vessel called the* , *whereof one A. B. was then and there the owner, upon the high sea then being, unlawfully, maliciously, and feloniously, did set fire to [or, cast away, or, destroy, according to the fact], with intent thereby then and there to prejudice the said A. B. [or, one E. F., the owner of certain goods and chattels then and there being on board of the said ship and vessel,] [or, G. H. and I. K., who had before then severally underwritten a certain policy of insurance on the said ship and vessel, or, on the freight of the said ship and vessel, or, on certain goods and chattels then and there being on board of the said ship and vessel]; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]* Commitment for setting fire to or destroying a ship, to prejudice the owner or underwriters, on like stat. (a)

(a) See the act, *ante*, p. 498.

(b) If the offence be committed in the body of a county, state the venue as in other cases.

FORMS.

(No. 4.)

Indictment for a like offence. (a)

Admiralty of England: (b) The jurors for our lord the king upon their oath present, that, before the committing of the offence hereinafter mentioned, to wit, on, &c., at, &c., a certain ship and vessel, called the _____, was then and there insured by certain underwriters, to wit, by A. B. and G. H.; and the said underwriters then and there severally underwrote a certain policy of insurance upon the said ship and vessel, for a certain voyage in the said policy mentioned; and that C. D., late of, &c., [mariner], and E. F., of the same place, [mariner], well knowing the premises, but intending, and fraudulently and feloniously contriving, unlawfully and maliciously to prejudice the said A. B. and G. H., who had so underwritten the said policy, as aforesaid, afterwards, and whilst the said policy was in force, to wit, on, &c., with force and arms, upon the high sea, and within the jurisdiction of the Admiralty of England, the said ship feloniously, unlawfully, and maliciously, did set fire to [cast away, or destroy], with intent thereby unlawfully and maliciously to prejudice the said A. B. and G. H., who had so underwritten the said policy upon the said ship and vessel, as aforesaid; against the form of the statute in such case made and provided, and against the peace of our lord the king, his crown and dignity. [Add other counts, as the case may suggest.]

(No. 5.)

Commitment for damaging a ship, otherwise than by fire, with intent to destroy it, &c., on 7 & 8 Geo. 4, c. 30, s. 10. (c)

Commencement as usual, as ante, p. 71, (No. 1.) on, &c., a certain ship and vessel called the _____, upon the high sea then being, one A. B. then and there being the owner thereof, unlawfully, maliciously, and feloniously, did damage otherwise than by fire, with intent then and there feloniously to destroy the said ship and vessel, and to render the same useless; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]

(No. 6.)

Indictment for a like offence. (c)

Admiralty of England: (b) The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., with force and arms, a certain ship and vessel called the _____, upon the high sea then being, one A. B. being then and there the owner thereof, then and there upon the high sea, and within the jurisdiction of the Admiralty of England, unlawfully, maliciously, and feloniously, did damage the said ship and vessel otherwise than by fire, with intent then and there feloniously to destroy the said ship and vessel, and to render the same useless; against the form of the statute in that case made and provided, and against the peace of our lord the king, his crown and dignity. [Add other counts as the case may suggest].

(No. 7.)

Commitment for doing an act tending to the loss of a ship in distress, on 7 & 8 Geo. 4, c. 30, s. 11. (c)

Commencement as usual, as ante, p. 71, (No. 1.) on, &c., at, &c., whilst a certain ship and vessel was on the high seas, and whilst the said ship and vessel was in distress, unlawfully, maliciously, and feloniously did [state the nature of the offence], the said [offence of the prisoner, stating it], as aforesaid, then and there tending to the immediate loss and destruction of the said ship and vessel; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]

Indictment.

An indictment for this offence may be readily framed from this preceding form.

(No. 8.)

Commitment for destroying part of a ship in distress, &c., or goods belonging to it, on 7 & 8 Geo. 4, c. 30, s. 11. (c)

Commencement as usual, as ante, p. 71, (No. 1.) on, &c., at, &c., in the said county, a part, to wit, the [bows] of a certain ship and vessel then and there

(a) See the act, ante, p. 498. See the body of a county, lay the venue accordingly. *Archbold's Criminal Law*, p. 216.

(b) If the offence be committed in (c) See the act, ante, p. 499.

wrecked [any part of any ship or vessel, which shall be in distress or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel], *one A. B. then and there being the owner thereof, unlawfully, maliciously, and feloniously did destroy; against the form of the statute in that case made and provided. And you, the said keeper, &c.* [as usual, to the end].

(No. 9.)

_____ } *The jurors for our lord the king upon their oath present, that, before and to wit, at the time of committing the felony hereinafter next mentioned, to wit, on, &c., at, &c., in the county aforesaid, a certain ship and vessel, called the* Indictment for a like offence. (a)
 _____ } *, the property of some person or persons to the jurors aforesaid unknown [or, one A. B. being then and there the owner thereof], was stranded and cast on shore ["in distress, or, wrecked, stranded, or cast on shore"]; and that A. B., late of, &c., then and there, with force and arms, a certain part, to wit, the [hulks] of the said ship, so stranded and cast ashore, as aforesaid ["any part of any ship or vessel which shall be in distress or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind, belonging to such ship or vessel"], unlawfully, maliciously, and feloniously did destroy; against the form of the statute in that case made and provided, and against the peace of our lord the king, his crown and dignity. [Add other counts, as the case may suggest.]*

(No. 10.)

Commencement as usual, as *ante*, p. 71, (No. 1.) *on, &c., at, &c., feloniously and by force, did prevent and impede a certain person unknown [or, one A. B.], whilst the said person [or, the said A. B.] was then and there endeavouring to save his life from a certain ship and vessel, which was then and there in distress, wrecked, stranded, and cast on shore; against the form of the statute in that case made and provided. And you, the said keeper, &c.* [as usual, to the end.] Commitment for impeding a person saving his life from a shipwreck, on 7 & 8 Geo. 4, c. 80, s. 11. (a)

(No. 11.)

_____ } *The jurors for our lord the king upon their oath present, that, before and at to wit, the time of committing the felony hereinafter mentioned, to wit, on, &c., at, &c., a certain ship and vessel called the [Dart], the property of some person or persons to the jurors aforesaid unknown [or, of one A. B.], was in distress, wrecked, stranded, and cast ashore; and that C. D., late of, &c., then and there, with force and arms, feloniously and by force, did impede and prevent a certain person, to the jurors aforesaid unknown [or, one E. F.], whilst the said person [or, the said E. F.] was then and there endeavouring to save his life from the said ship and vessel so in distress, wrecked, stranded, and cast ashore, as aforesaid; against the form of the statute in that case made and provided, and against the peace of our lord the king, his crown and dignity. [Add other counts, as the case may suggest.]* Indictment for a like offence.

(No. 12.)

Commencement as usual, as *ante*, p. 71, (No. 1.) *on, &c., at, &c., wilfully and feloniously did cut away and injure [cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other way injure or conceal] a certain buoy [any buoy, buoy-rope, or mark], the property of A. B., belonging to a certain ship or vessel called the [Habe], [or, which was then and there attached to an anchor [or, cable] belonging to a certain ship and vessel called the [Habe]; contrary to the form of the statute in such case made and provided. And you, the said keeper, &c.* [as usual, to the end.] Commitment for injuring, &c., buoys, &c., of ships, on 7 & 8 Geo. 4, c. 75, s. 11. (a)

An indictment for this offence may be readily framed from this form.

Indictment.

(a) See the act, *ante*, p. 499. See form, *Archb. Peef's Acts*.

(No. 13.)

Information, &c. — } Be it remembered, that on, &c., at, &c., A. B., of _____, in the
 on 6 Geo. 4, c. 110, s. 27, } county aforesaid, [merchant], [owner or, part owner] of a certain ship and
 against master for } vessel called _____, personally cometh before me, J. P., one of his majesty's
 detaining a certifi- } justices of the peace for the said county, and residing near to the place wherein the de-
 cate of registry. } tainer and refusal hereafter mentioned was committed, and, on his oath, complaineth to
 (a) } and informeth me, that C. D., of, &c., having, to wit, on, &c., at, &c., received and ob-
 tained the certificate of the registry of the said ship and vessel, did afterwards, to wit,
 on, &c., now last past, at, &c., wilfully detain the said certificate, and refuse to deliver
 up the same to the proper officers of his majesty's customs then and there demanding
 the same of him, for the purposes of the said ship and vessel, as occasion did then and
 there require; contrary to the form of the statute in such case made and provided.
Whereby, &c. [Conclude as usual.]

(No. 14.)

Conviction
thereon.

A conviction may be readily framed from the preceding form, and the general form of conviction given by the 3 Geo. IV. c. 23. See *Conviction*, Vol. I.

(No. 15.)

Information, &c., State the offence thus: That C. D., late of, &c., within the space of [three cal-
 on 4 Geo. 4, c. 39, }endar months] now last past, to wit, on, &c., at, &c., being then and there the [master,
 s. 1, against } and a person having the charge and command], of a certain ship and vessel called
 master of ship } _____, then and there employed in the conveyance of passengers between
 under 200 tons, } Great Britain and Ireland, being of less than two hundred tons' burthen, to wit, of the
 for carrying } burthen of one hundred tons, did unlawfully have and take on board, carry and convey,
 more than 20 } a greater number of passengers than twenty, to wit, [fifty] persons, as passengers, in
 passengers, be- } and by the said ship and vessel, from a certain port in England, called _____,
 tween Great Bri- } to a certain port in Ireland, called _____; no license for the conveyance of pas-
/> tain and Ireland, } sengers having been then previously granted to the owner, or master, or commander of
 without license. } the said ship and vessel, according to the directions of the statute in that behalf made
 (b) } and provided; contrary to the form of the statute in such case made and provided.
Whereby, &c. [Conclude as usual.]

A conviction for this offence may be readily framed from this and the general form of conviction; see *Conviction*, Vol. I.

See a variety of forms of informations and convictions for offences relative to pilots and pilotage, on the repealed act, 52 Geo. III. c. 39, *Archb. Forms of Commitments and Convictions*, 321.

Shire-Hall.

4 Geo. 4, c. 64.

THE 4 Geo. IV. c. 64, repeals the 14 Geo. III. c. 59. See the new provisions, *Chancs*, Vol. II.

The 7 Geo. IV. c. 63, s. 1, repeals the 9 Geo. III. c. 20.

7 Geo. 4, c. 63.
All acts com-
menced under
repealed act,
declared valid,
and may be com-
pleted under this
act.

Sect. 2 enacts, "that all acts, matters, and things relating to the building or repairing of shire-halls, county-halls, or other buildings, which shall have been commenced or done under or by virtue of the said act so hereby repealed, shall remain as good and valid, to all intents and purposes, as if this act had not been made; and that the clauses and provisions of this present act shall be applied and put in execution for the completing of the building or repairing of such shire-halls, county-halls, or other buildings, as if such acts, matters, and things had been commenced and done under the authority or according to the directions of this present act."

(a) See *ante*, p. 501.

(b) See *ante*, p. 503. See other forms, *Archb. Forms of Com. and Conv.*

Sect. 3. "That whenever it shall appear to the justices at any general or quarter-sessions of the peace, to be holden at any time after the passing of this act, in any county, riding, or division in England or Wales, by any presentment to be made by the grand jury at any assizes or great session or session of gaol delivery, or session of the peace, to be holden for any such county, riding, or division, or by any presentment to be at any time made by any two or more justices of the peace in and for such county, riding, or division, and laid before the justices at any such general or quarter sessions of the peace, that any shire-hall, county-hall, or other building accustomedly made use of for holding the assizes, or grand, or other sessions of the peace, or that any lodgings for the accommodation of his majesty's judges of assize in and for such county, riding, or division, shall be insufficient, inconvenient, deficient, or in want of repair or improvement, or that there is a necessity for the erection of a new shire-hall, county-hall, or other building, or of lodgings for his majesty's judges of assize, it shall and may be lawful for the justices assembled at the general or quarter sessions at which such presentment shall be laid before such justices, or at the then next general or quarter sessions, or adjournment thereof, for such county, riding, or division, and they are hereby required, to cause notice to be given three times at least in some public newspaper circulating within such county, riding, or division, of such report or presentment having been laid before them at such sessions, and of their intention to take the same into consideration at the next ensuing or some subsequent general or quarter sessions or adjournment thereof; and in case the justices at such last-mentioned sessions, or the major part of them, shall resolve that such report or presentment is well-founded, then it shall and may be lawful for such justices, and they are hereby required, at the sessions mentioned in such notice, or at some subsequent sessions or adjournment thereof, with the like notice, to take such measures, either by contract or otherwise, as shall appear to them to be requisite and proper for the altering, enlarging, repairing, or improving of any shire-hall, county-hall, or other building or lodgings as aforesaid, or for the pulling down of any such shire-hall, county-hall, or other building or lodgings, or any part thereof, and for the building of any new shire-hall, county-hall, or other building or lodgings of his majesty's judges, or any part thereof, in lieu of any building or any part of any building which shall be so pulled down, regard being had, in the case of contracts, to the reasonableness of the price and responsibility of the contractors; and every contractor shall give sufficient security for the due performance of his contract to the clerk of the peace for such county, riding, or division; and such contract may be inspected at all reasonable times by any justices, or by any other person contributing to the rate of such county, riding, or division, without fee or reward."

Sect. 4. "That after such presentment and notice as aforesaid, it shall and may be lawful for the justices in general or quarter sessions assembled, or the major part of them, and they are hereby empowered, to purchase any houses, lands, tenements, or hereditaments for the purpose of enlarging, improving, or rendering more commodious, or for the building or rebuilding any shire-hall, county-hall, or other building or lodgings as aforesaid, or any part thereof, and to direct the property so purchased to be conveyed to such person or persons as the said justices shall think fit, in trust for the purposes aforesaid, under the regulations and directions in this act contained; and such houses, lands, tenements, or hereditaments shall, when inclosed and added to such shire-hall, county-hall, or other buildings or lodgings, be deemed and taken to be parts of such shire-hall, county-hall, or other building or lodgings, and to be within the county, riding, or division, to the use of which such shire-hall, county-hall, or other building or lodgings may be applied, to all intents and purposes whatever, so long as the same shall be used by such county, riding, or division, for the purposes of this act, and no longer."

Sect. 5. "That in case any presentment shall be expressly made by any grand jury, that the place wherein any old shire-hall, county-hall, or other building or lodgings as aforesaid, is situated, is improper, and that the shire-hall, county-hall, or other building or lodgings as aforesaid, ought, therefore, to be removed to some other place within the county, riding, or division, or in

6 Geo. 4, c. 63.

If justices, upon presentments made, shall deem any shire-hall, &c., insufficient, or in want of repair, they shall give notice that the same will be considered at some future sessions, when they may take such measures as shall appear requisite for the purpose.

No fee.

Justices may purchase houses, &c., for the purpose of building or enlarging any shire-hall, &c.

Justices may remove the site of shire-halls upon express presentment that the old shire-hall was unfit and inconvenient.

7 Geo. 4, c. 68.

case any presentment shall be made by any grand jury, that any shire-hall, county-hall, or other building or lodgings as aforesaid, shall be in such a state that the same ought to be pulled down, and a new building erected, it shall be lawful for the justices at their general or quarter sessions assembled, and they are hereby required, to take such presentment into their consideration; and if it shall be resolved by the justices assembled at two successive general or quarter sessions, or the major part of them, that any old shire-hall, county-hall, or other building or lodgings as aforesaid, ought to be removed or pulled down, and that such new shire-hall, county-hall, or other building or lodgings as aforesaid, are necessary, it shall be lawful for the justices so assembled to contract for the building of a new shire-hall, county-hall, or other building, in any part of the county, riding, or division which they may deem most eligible, (not being more than one mile from the site of the shire-hall, county-hall, or other building, in lieu of which the same shall be built); and whenever the building of any court of justice is or shall be so attached to any shire-hall, county-hall, or other building, as to render it impracticable or inconvenient to repair, enlarge, improve, or rebuild the said shire-hall, county-hall, or other building, without also altering or pulling down the building of the said court, then and in such cases it shall be lawful for the justices in general or quarter sessions assembled to cause such courts to be altered or pulled down, or to be rebuilt, either on the same or on any other site, subject to the same provisions as are by this act appointed with respect to shire-halls, county-halls, or other buildings as aforesaid."

Distance from
site of old shire-
hall.

Sites of such
shire-halls may be
applied to the
improvement of
the roads or
streets, &c.

How overplus
disposed of.

All matters per-
formed in new
shire-halls, &c.,
shall be as valid
as if done in the
old shire-halls,
&c.

† *Sic*.

Proviso as to
lodgings of the
judges at county
assizes.

Justices may

Sec. 6. "That if the said justices so assembled in two successive general or quarter sessions shall see fit, it shall and may be lawful for such justices to give, grant, or convey gratuitously, the whole of the ground or soil of any such shire-hall, county-hall, or other building or lodgings as aforesaid, or any part or parts of the same respectively, for the purpose of widening, opening, or otherwise improving any road, street, way, or passage, or roads, streets, ways, or passages, in any county, riding, or division, or in any city or town, within or adjoining to which such shire-hall, county-hall, or other building or lodgings as aforesaid, shall be situate; and if the whole of such ground or soil shall not be necessary for making the improvement or improvements, then to sell or dispose of the residue thereof in manner herein provided."

Sec. 7. "That all matters and things whatever, which might or ought to be lawfully done, performed, and executed in any shire-hall, county-hall, or other building, or in the lodgings of his majesty's judges as aforesaid, which shall be wholly or in part pulled down, or the site of which shall be removed under the provisions of this act, shall and may be lawfully done, performed, and executed in any new shire-hall, county-hall, or other building or lodgings as aforesaid, which may be built or rebuilt in the lieu and stead of any shire-hall, county-hall, or other building or lodgings so pulled down, or in any shire-hall, county-hall, or other building or lodgings which shall be built, rebuilt, repaired, or enlarged, in lieu of any part of any former shire-hall, county-hall, or other building or lodgings, in lieu of or † addition to any part of any former shire-hall, county-hall, or building, or lodgings as aforesaid; and that all matters and things done, performed, or executed in such new shire-hall, county-hall, or other building or lodgings, shall be as good, valid, and effectual, to all intents and purposes whatever, as if they had been done, performed, and executed in such former shire-hall, county-hall, or other building or lodgings as aforesaid."

Sec. 8. "That whenever the courts of assize, *nisi prius*, oyer and terminer, or gaol delivery, for any county at large in England, shall be held in or near any city or town which is also a county of itself, and at the same time with the like or any of the like courts for the said city or town, the lodgings of the judge or judges shall be construed and taken to be situate both within the county at large, and also within the county of such city or town, for the purpose of transacting the business of the assizes for such county at large, and for the county of such city or town, during the time that such judge or judges shall continue therein for the execution of their several commissions."

Sec. 9. "That in case it shall at any time happen that any such shire-hall,

county-hall, or other building or lodging, shall be injured by means of fire or any sudden accident, between the several times of holding the general or quarter sessions for such county, riding, or division, it shall and may be lawful for any two or more justices of the peace for such county, riding, or division, to make an order that such repairs shall be immediately done and made, as may be necessary and sufficient for the upholding of any such shire-hall, county-hall, or other building or lodgings; and such order of such two justices, together with an account of any proceedings which may have taken place in consequence thereof, shall be laid before the next court of general or quarter sessions to be holden for such county, riding, or division; and it shall be lawful for such court, and such court is hereby authorized and required, to order the payment of such sum or sums of money as in the opinion of such court shall appear to have been properly expended in such repairs as aforesaid."

7 Geo. 4, c. 63.
order occasional repairs, and report the same to the sessions.

Sect. 10. "That when it shall appear that the amount of any estimate approved by the justices for the building or re-building, repairing, improving, or enlarging any shire-hall, county-hall, or other building or lodgings as aforesaid, under the powers of this act, shall exceed one-half of the amount of the ordinary annual assessment for the rate of any county, riding, or division (such ordinary assessment to be taken on an average of such rate for the last seven years preceding), it shall and may be lawful for the justices in quarter sessions assembled, from time to time to borrow and take up, on mortgage of such rate, by instrument in the form contained in the schedule to this act annexed, marked (A), or to the like effect, any sum of money not exceeding the amount of such estimate, in sums not less than 50*l.* each, at interest, as to the said justices shall appear necessary and expedient for the purposes aforesaid, and to secure every such sum of money so borrowed upon the credit of the said rates; and it shall and may be lawful for the justices so assembled, and they are hereby authorized, to treat and agree with any person for the loan of any such sums of money, and by their order to confirm every such agreement; and every such agreement, signed by the chairman and two or more other justices present at the time of making such order, shall be, and the same is hereby declared to be, effectual for securing every sum of money so advanced, with interest thereon, to the person or persons advancing the same, on such terms as in and by such agreement shall be stipulated, and copies or extracts of all such agreements shall be kept by the clerk of the peace; and it shall and may be lawful for every person who shall be entitled to the money thereby secured, and such person is hereby empowered, by indorsing his name on the back of such security, to transfer the same, and his right to the principal money and interest thereby secured, unto any other person; and every such assignee may in like manner transfer the same again, and so *toties quoties*; and the person to whom such security or any such assignment thereof shall be made, and his executors, administrators, and assigns, shall be creditors upon the said rate in an equal degree one with another, and shall not have any preference with respect to the priority of any monies so advanced."

When the amount of estimate for building exceeds one half of the annual county rate, justices may borrow money on mortgage of the rates.

In what case agreement effectual.

Copies kept by clerk of the peace.

Sect. 11. "That it shall and may be lawful for the said justices, and they are hereby authorized and required, to charge the rate to be raised upon such county, riding, or division, not only with the interest of the money so borrowed, but also with the payment of such further sum as shall insure the payment of the whole sum borrowed within fourteen years from the time of borrowing the same; and such sums shall be assessed on the county, riding, or division, in such manner as county rates are directed to be assessed under the laws in force for that purpose, and shall be paid and applied under the direction of the justices, in discharge of the interest, and of so many of the principal sums on the said securities as such money will extend to discharge in each year, until the whole of the money for which such securities shall be made, and the interest thereof, shall be fully paid and discharged; and the justices shall, and they are hereby required to fix one or more day or days in each year on which such payment shall be made, and shall make orders for assessments in due time, so as to provide for the regular payment thereof; and such justices shall also, and they are hereby required to appoint a proper person to keep an exact and regular account of all the receipts and payments under

Justices may charge county rates with interest on money borrowed, and form a sinking fund to repay the whole as herein mentioned.

Books to be kept of receipts and payments.

7 Geo. 4. c. 63.

the authority of this act, in a book or books, separate and apart from all other accounts, and the same to adjust and settle in such manner that it may easily be seen what interest is growing due, and what principal money has been discharged, and what remains due, and the books or book so adjusted and settled to deliver into court at every general or quarter sessions to be held for such county, riding, or division; and the justices shall also, and they are hereby required at every such sessions carefully to inspect all such accounts, and to make orders for carrying the purposes of this act into execution, in such manner as to them shall seem meet; and if at any time it shall appear to the justices that the person appointed for the purposes aforesaid has neglected to perform any matter or thing required by this act, or by the order of such justices, or has not duly and without delay applied all money in his hands to the purposes directed by this act, such person shall forfeit a sum equal to one-half the amount of the money which shall not have been applied to the purposes of this act; and the justices so assembled in sessions as aforesaid shall direct in what order such securities shall be discharged, by drawing lots, or otherwise, as they shall think fit, taking care to discharge, in the first place, all such securities as shall bear the highest rate of interest."

Neglecting to perform act.

Penalty.

Powers of 6 Geo. 4. c. 40, applied to this act.

Sect. 12. "That an act made in the sixth year of his present majesty's reign, intituled, 'An Act to enable Justices of the Peace in England, in certain Cases, to borrow Money on Mortgage of the Rate of the County, Riding, or Place for which such Justices shall be then acting,' and the several clauses, powers, and provisions in the said recited act contained, relating to the paying off of any debt or debts, and the borrowing of any money for such purpose, shall and may be applied in the paying off any money borrowed under the provisions of this act, as fully and effectually as if such clauses, powers, and provisions were repeated and re-enacted in this act."

Persons or districts liable to repair or furnish shire-halls, &c. shall continue so liable.

Sect. 13. "That in cases where any shire-hall, county-hall, or other building, accustomedly made use of for holding the assizes or great or other sessions, or any lodgings for the accommodation of his majesty's judges of assize, in any county, riding, or division in England or Wales, hath for time out of mind been maintained, repaired, or provided at the expense of any particular person or persons, or of any riding or ridings, division or divisions, or part or parts of any county or shire, or city or town corporate, such shire-hall, county-hall, or other building or lodgings, shall continue to be maintained, repaired, or provided at the expense of the person or persons so liable thereto, or at the expense of such riding or ridings, or division or divisions, or part or parts of any county, or city, or town corporate, so liable thereto, in like manner as heretofore, to all intents and purposes whatever, any thing in this act to the contrary in anywise notwithstanding; and that all cities, towns, boroughs, corporations, rapes, lathes, wapentakes, ports, parishes, townships, or other places or divisions, and all and every person and persons, and body or bodies politic or corporate, which shall by law or ancient usage be bound or obliged to maintain, repair, or provide any such shire-hall, county-hall, or other building or lodgings as aforesaid, or to furnish and provide the same with benches, tables, rails, or other fixtures or furniture, and to keep the same in repair, shall continue and be bound and obliged so to do; and all and every sum and sums of money to be laid out in rebuilding, repairing, maintaining, providing, or furnishing any shire-hall, county-hall, or other building or lodgings as aforesaid, for the rebuilding, repairing, maintaining, providing, or furnishing of which any riding, division, or part of any county or shire, city, or town corporate, person or persons, body or bodies politic or corporate, shall be bound to provide as aforesaid, shall be procured or provided by, assessed and rated on, and levied and collected by such riding, division, or other part of such county or shire, city or town corporate, person or persons, body or bodies politic or corporate, and not on the county at large; anything hereinbefore contained to the contrary in anywise notwithstanding."

Powers of 4 Geo 4. c. 64, extended to this act.

Sect. 14. "That all the clauses, powers, and provisions contained in an act passed in the fourth year of the reign of his present majesty, intituled 'An Act for consolidating and amending the Laws relating to the Building, Repairing, and Regulating of certain Gaols and Houses of Correction in England and

Wales,' with relation to the sale, purchase, and conveyance of houses, lands tenements, or hereditaments, by any person or persons, or body or bodies politic or corporate, or by any guardians, committees, husbands, trustees, or attorneys of infants, lunatics, idiots, or persons under coverture or any other disability, and with relation to the valuation of such houses, lands, tenements, or hereditaments; and the application of the money for such purchase shall, so far as the same are or can be applicable, be applied and extended to the sale and purchase, conveyance and valuation of houses, lands, tenements, or hereditaments, for the purposes of this act, in as full and ample a manner, to all intents and purposes, as if such clauses, powers, and provisions had been repeated and re-enacted in this act."

Sect. 15. "That in case it shall appear to the justices of the peace assembled at any general or quarter session of the peace holden for any county, riding, or division, that by reason of any shire-hall, county-hall, or other building or lodgings as aforesaid, for such county, riding, or division, having been lately built or considerably enlarged, any other shire-hall, county-hall, or other building or lodgings within such county, riding, or division, shall have become unnecessary, it shall be lawful for such justices, or for the justices assembled at the then next general or quarter sessions to be holden for the same county, riding, or division, and they are hereby authorized, empowered, and required to order notice to be given three times at least in some public newspaper circulating in such county, riding, or division, that the propriety of selling such unnecessary shire-hall, county-hall, or other building or lodgings as aforesaid, will be taken into consideration at the next ensuing general or quarter sessions; and in case the justices at such last-mentioned session, or the majority of them, shall resolve that such unnecessary shire-hall, county-hall, or other building or lodgings ought to be sold, then and in that case it shall be lawful for such justices, and they are hereby authorized and empowered to take such measures for selling such shire-hall, county-hall, or other building or lodgings, together with all out-houses, land, tenements, and hereditaments to the same belonging (unless such building, outhouses, land, tenements, or hereditaments, or any part thereof, shall be the property of his majesty, his heirs, or successors, or of any city or town corporate, body or bodies politic or corporate, or of any private individual), for the best price or prices that can be obtained for the same, either by public auction or private contract, and subject to such conditions and in such manner as such justices shall think proper."

Sale of former shire halls or lodgings.

Notice of selling the same.

Sect. 16. "That whenever a sale of any shire-hall, county-hall, or other building or lodgings as aforesaid, shall be made pursuant to the directions in this act contained, the purchase-money for the same shall be paid to the treasurer of such county, riding, or division, and it shall be lawful for the trustees or trustee (if any) of every such shire-hall, county-hall, or other building or lodgings as aforesaid, together with the clerk of the peace of such county, riding, or division, to convey such shire-hall, county-hall, or other building or lodgings as aforesaid, with the outhouses, land, tenements, and hereditaments thereto belonging, unto and to the use of the purchaser thereof, and to the heirs and assigns of such purchaser, or to such uses as such purchaser or purchasers shall direct or appoint; and every such conveyance, together with the treasurer's receipt for the purchase-money, shall give a good and valid title to the purchaser; and the purchase-money shall be applied by the treasurer towards discharging the expense which shall have been incurred in building, enlarging, or improving any shire-hall, county-hall, or other building or lodgings as aforesaid for the same county, riding, or division, or in aid of any rate of such county, riding, or division, as the justices of the peace for such county, riding, or division, in general or quarter session assembled, shall direct."

Shire-halls, &c. when sold, to be conveyed by the trustees, &c. to purchaser.

Application of purchase-money.

Sect. 17. "That whenever, in the event of any sale being agreed upon in pursuance of this act, it shall appear to the justices by whom the resolution for making such sale shall be entered into, that the lands, tenements, or hereditaments to be sold have never been vested in any trustee or trustees, or that the trustee or trustees thereof are dead, and that there is difficulty in ascertaining the surviving trustee, or the heir or heirs of such surviving trustee,† it shall appear that such heir or heirs is or are under any disability, then and in any such case it

Clerk of the peace may convey.

† Sic.

7 Geo. 4, c. 63.

No enrolment of bargain and sale necessary.

Powers of 5 Geo. 4, c. 12, applied to this act.

Not to authorize sale of halls belonging to cities, &c.

Recovery and application of fines and penalties.

If no distress, imprisonment.

In actions for executing act, general issue.

Trebble costs.

Form of mortgage and charge upon the county rate, for securing money borrowed.

shall be lawful for the said justices to order that a conveyance of such lands, tenements, or hereditaments shall be made and executed by the clerk of the peace to the purchaser thereof, and in such case a conveyance thereof by the clerk of the peace, by indenture of bargain and sale (of which no enrolment shall be necessary), shall be valid and effectual to all intents and purposes."

Sect. 18. "That all the powers and provisions contained in an act of the fifth year of the reign of his present majesty, intituled, 'An Act to facilitate, in those Counties which are divided into Ridings or Divisions, the Execution of an Act of the last Session of Parliament, for consolidating and amending the Laws relating to the building, repairing, and regulating of certain Gaols and Houses of Correction in England and Wales,' shall extend to the several matters and things required by this act to be done by the justices of the peace at any general quarter session of the peace, in as full and ample a manner as if the same had been inserted in and made part of this act."

Sect. 19. "That the powers in this act contained shall not extend or be construed to extend to any halls or other buildings not belonging to and not being the property of counties, ridings, or divisions of counties, or holden in trust for them, but which belong to and are the property of cities and towns corporate, although such halls and other buildings may have been accustomedly made use of for holding the assizes or great or other sessions of the counties, ridings, or divisions wherein they are respectively situate."

Sect. 20. "That all fines, forfeitures, and penalties imposed by this act shall, on conviction of the offender before any one justice of the peace within his jurisdiction, be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such justice of the peace, who is hereby authorized to hear and examine witnesses on oath or affirmation on any complaint, and to determine the same; and all such fines, forfeitures, and penalties shall be paid from time to time to the treasurer of the county, riding, division, district, city, town, or place for the time being, and shall be applied and disposed of in aid of any rate applicable to the use of any such county, riding, division, district, city, town, or place, and to or for no other use or purpose whatsoever: and for want of sufficient distress the offender shall be committed to the common gaol or house of correction for any such term or time, not exceeding three calendar months, as such justice shall think proper."

Sect. 21. "That if any suit or action shall be prosecuted against any person for any thing done in pursuance of this act, such person may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done by authority of this act; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue his or her action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover trebble costs, and have the like remedy for the same as any defendant hath by law in other cases; and if a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereon."

Schedule (A.) to which this Act refers.

"We, A. B., one of his majesty's justices of the peace, and chairman of the court of quarter sessions of the peace holden at _____, on the _____ day of _____, for the county, &c., of _____ [as the case may be], C. D. and E. F., Esquires, two other of his majesty's justices of the peace acting for the said county, &c., and assembled in the said court, in pursuance of the powers to us given by an act passed in the seventh year of the reign of his Majesty King George the Fourth, intituled, &c. [insert the title of this act], do hereby in open court mortgage and charge all the rates to be raised within the said county, &c. [as the case shall be], under the description of county rates, by the laws now in being, with the payment of the sum of _____, which G. H., of _____, hath proposed and agreed to lend, and hath now actually advanced and paid towards defraying the expenses of building, repairing, &c. [as the case shall be], the shire-hall, county-hall, or other buildings or judges' lodgings [as the case shall be], for the said county, &c.; and we do

herby assign the same unto the said G. H., his executors, administrators, and assigns, ^{7 Geo. 4. c. 63.} for securing the payment of the sum of _____, and interest for the same, after the rate of _____ per centum per annum, and do order the treasurer for the said county, &c., or other person [as the case shall be], to pay the interest of the sum of _____ half-yearly, as the same shall become due, until the principal shall be discharged, pursuant to the directions of the said act."

Shoemakers. See *Excise (title, Leather)*, Vol. II. *Servants*, ante, p. 410.

Shops, Breaking into, see *Burglary*, Vol. I.; *Stealing in*, see *Larceny*, Vol. III. p. 575.

Silks.

[13 & 14 Car. II. c. 15; 9 & 10 Wil. III. c. 43; 5 Anne, c. 20; 7 Geo. IV. c. 53; 7 & 8 Geo. IV. c. 30; 10 Geo. IV. c. 23, c. 52.]

FOR sundry matters relating to silks and calicoes, see the article *linen cloth*, in title *Excise*, Vol. II.

Concerning servants and other workmen in the silk manufactories, see *Workmen*, title *Servants*, ante, p. 382. The 10 Geo. IV. c. 52, extends the powers and provisions of the 4 Geo. IV. c. 34, to all persons engaged in the silk manufactories. See the provisions, *Servants*, ante, p. 382.

As to malicious injuries to silks and manufactures, see the 7 & 8 Geo. IV. c. 30, s. 3, *Malicious Injuries to Property*, Vol. III. *Offences*.

As to stealing from silk manufactories, see *Larceny*, Vol. III. p. 577.

The 10 Geo. IV. c. 33, regulates the importation of and the duties payable on silks; and see 7 Geo. IV. c. 53. The 3 Geo. III. c. 21, and 5 Geo. III. c. 48, are repealed by 6 Geo. IV. c. 105. *Importation and duties.*

No person shall exercise the trade of a silk-thrower unless he hath served seven years' apprenticeship; on pain of 40s. a month, half to the king, and half to him that shall sue in any court of record, or at the assizes, or quarter sessions of the peace. 13 & 14 Car. II. c. 15, s. 2. *Silk-thrower.*

By the 9 & 10 Wil. III. c. 43, s. 1, no foreign silks, called alamodes or lute-strings, shall be imported but in the port of London, on notice first given to the commissioners of the customs, and license had from them. *Alamodes and lutestrings.*

Sect. 3. And if they be imported elsewhere, or without such notice and license, and the duties paid, they shall be forfeited, or the value thereof, and be sold and exported again; and the offender so importing, and also the receiver and person offering to sell the same, shall forfeit 500*l*.

Sect. 2. And the commissioners shall cause them to be marked and sealed.

Sect. 5. If any person shall counterfeit the custom-house seal, or seal of the lutestring company, he shall forfeit 500*l*., and be set in the pillory (a) two hours.

Sect. 5. And any person who shall buy and sell, or have in his custody, any alamodes or lutestrings, sealed or marked with a counterfeit seal or mark, shall forfeit the same, and 100*l*.

Sect. 5. Any person, authorized by a writ of assistance under the seal of the exchequer, or with a constable or other public officer, inhabiting near the place, with a warrant from a justice of the peace, and in the day-time, may enter any house, shop, cellar, warehouse, or other place, to search for and seize any alamodes or lutestrings imported contrary to this act, or not sealed and marked

(a) By the 56 Geo. III. c. 138, this punishment is abolished. See title *Pillory*, ante, p. 90.

SILKS.

as aforesaid, or marked with a counterfeit mark or seal, and, in case of resistance, may break open doors, chests, trunks, and other packages; and every justice shall grant such warrant to any credible person making oath that he hath reason to suspect or believe that there are some of the said silks so fraudulently imported, or not sealed and marked, or sealed and marked with a counterfeit seal or mark, in the place or places where he intends to search.

Sect. 6. And all officers belonging to the customs, sheriffs, mayors, bailiffs, constables, and other officers, shall be aiding in the execution thereof.

But none but custom-house officers, or persons deputed by the lutestring company, and having writs of assistance from the Exchequer, shall seize lute-strings or alamoses within the bills of mortality. 5 Anne, c. 20, s. 3.

Sect. 9. The said penalties shall be two-thirds to the king, and one-third to him that shall seize or sue in any court of record.

Slander.

[3 Edw. I. c. 34; 2 Rich. II. st. 1, c. 5; 12 Rich. II. c. 11.]

Written slander.
Verbal slander.

AS to written slander, see *Libel*, Vol. III.

As to what is verbal slander, and the civil remedies for the same and other laws relative thereto, see the *Treatises* by Mr. Starkie, Mr. Mence, and Mr. Holt. See also *Schwyn's Nisi Prius*, title, *Slander*, 3 *Bla. Com.* by Chitty, 123, &c., *Roscoe on Evidence*, p. 226.

I do not find it anywhere clearly settled how far slander or scandalous words become objects of the criminal jurisdiction, and so cognizable before justices of the peace, by reason of the different circumstances in matters of so intermediate a nature; for the same words, when spoken of different persons, and even of the same person, with a different emphasis and manner of delivering them, may receive a very different interpretation.

In general, it seemeth, that words which directly tend to a breach of the peace, as if one man challenge another, are cognizable before justices of the peace; for which the party may be bound to the good behaviour, and even indicted. 2 *Salk.* 628; 1 *Keb.* 931.

But if they do not tend directly to a breach of the king's peace, but are matters only of private slander between party and party, which no way affect the public administration of justice, as in case where the common people are wont to call one another knaves and rogues and whores and thieves, I do not find it asserted by any good authority that justices of the peace have any jurisdiction at all in such matters; but the proper remedy seems to be in one of these two ways, either by a prosecution in the spiritual court, or by an action upon the case at the common law. See *Libel*, Vol. III.

Scandalum magnatum.

There is one species of slander, of which the law takes a more special notice; and that is, when it relates to the great men of the realm, concerning whom it is enacted, by the 3 Edw. I. c. 44, 2 Rich. II. st. 1, c. 5, and 12 Rich. II. c. 11, "that none shall tell or publish any false news or tales, whereby discord, or occasion of discord, or slander, may grow between the king and his people, or the great men of the realm; and that none shall devise, speak, or tell any false news or lies of any prelates, lords, judges, or other great men of the realm, whereof any discord or slander may arise; on pain of imprisonment, until he hath brought into court the first author of the tale; if he cannot find the author, he shall be punished by advice of council."

Publish any false News or Tales—But this extends only to extra-judicial slanders; for, if a man charge them in due course of law, although the charge be false, yet there will lie no action *de scandalis magnatum*, neither at common law nor by the statutes. 2 *Inst.* 228.

Slandering a justice.

As to slandering a justice of the peace in the execution of his office, see *Justices*, Vol. III. p. 476.

Slaughter-Houses. See *Horses*, Vol. III.

Slave-Trade and Slavery.

[5 Geo. IV. c. 113; 1 Wil. IV. c. 54.]

THE 5 Geo. IV. c. 113, relates to the slave-trade.

By the ninth section of that act, dealing in slaves on the high seas, &c. shall be deemed piracy. See *Piracy, ante*, p. 94.

Sect. 10 enacts, "that (except in such special cases as are in and by this act permitted, or otherwise provided for) if any person shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves, or shall, otherwise than as aforesaid, carry away or remove, or contract for the carrying away or removing of slaves, or other persons, as or in order to their being dealt with as slaves; or shall import or bring, or contract for the importing or bringing, into any place whatsoever, slaves or other persons, as or in order to their being dealt with as slaves; or shall, otherwise than as aforesaid, ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; or shall fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall knowingly and wilfully lend or advance, or become security for the loan or advance, or contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects, employed, or to be employed, in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security for agents employed, or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful, or in any other manner to engage, or to contract to engage, directly or indirectly therein, as a partner, agent, or otherwise; or shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transshipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects, to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall take the charge or command, or navigate, or enter and embark on board, or contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, surgeon, or supercargo, knowing that such ship, vessel, or boat, is actually employed, or is in the same voyage, or upon the same occasion, in respect of which they shall so take the charge or command, or navigate, or enter and embark, or contract so to do as aforesaid; intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall knowingly and wilfully insure, or contract for the insuring of any slaves, or any property or other subject matter engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall wilfully and fraudulently forge or counterfeit any certificate, certificate of value

Piracy.

Persons dealing in slaves, or exporting or importing slaves;

or shipping slaves in order to exportation or importation;

or fitting out slave-ships;

or embarking capital in the slave-trade;

or guaranteeing slave adventures;

† *Sic.*

or shipping goods, &c. to be employed in the slave-trade;

or serving on board slave-ships as captain, master, &c. surgeon, &c.

or insuring slave adventures;

or forging instruments relating to the slave laws.

5 Geo. 4, c. 143.

declared guilty of felony, &c.

Nothing herein shall prevent persons from purchasing slaves in any island, &c. belonging to his majesty, provided such slaves shall be employed in the same island, &c.

Process and trial.

Bounties on seizure of.

ation, sentence, or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or any receipt (such receipts being required by this act), or any part of such certificate, certificate of valuation, sentence, or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or receipt as aforesaid; or shall knowingly and wilfully utter or publish the same knowing it to be forged or counterfeited, with intent to defraud his majesty, his heirs, or successors, or any other person or persons whatsoever, or any body politic or corporate; then and in every such case the person or persons so offending, and their procurers, counsellors, aiders, and abettors, shall be, and are hereby declared to be felons, and shall be transported beyond seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the court before whom such offender or offenders shall be tried and convicted."

Sect. 13. "That nothing in this act contained shall prevent or be construed to prevent any persons from dealing or trading in, purchasing, selling, bartering, or transferring, or from the contracting for the dealing or trading in, purchase, sale, barter, or transfer of any slaves or slave lawfully being within any island, colony, dominion, fort, settlement, factory, or territory belonging to or in the possession of his majesty, in case such dealing or trading, purchase, sale, barter, transfer, or contract, shall be made and entered into, with the true intent and purpose of employing or working such slaves or slave within such and the same island, colony, dominion, fort, settlement, factory, or territory, in which they, he, or she, may lawfully be, at the time of the making or entering into any such dealing or trading, purchase, sale, barter, transfer, or contract."

Sect. 50. "That all offences committed against this act may be inquired of, tried, determined, and dealt with, as if the same had been respectively committed within the body of the county of Middlesex."

By the 1 Wil. IV. c. 55, the rate of bounties payable upon the seizure of slaves is reduced.

Smugglers. See *Excise*, Vol. II.

Snarcs. See *Game*, Vol. II.

Snuff. See *Tobacco*, *post*.

Soap. See *Excise*, Vol. II.

Sodomy. See *Buggery*, Vol. I.; *Robbery*, *post*; *Threats*, *post*.

Soldiers. See *Military Law*, Vol. III.; *Game*, Vol. II.

Solicitations to Commit Offences. See *Attempts*, Vol. I.

Special Case. See *Sessions*, *ante*, p. 480.

Spiritous Liquors—As to the *Excise* on, see *Excise*, Vol. II.
Hawking of—see *Hawkers*, Vol. II. **Selling in small Quantities**—see *Albhouse*, Vol. I. p. 105. **Selling in Gaols**—see *Gaols*, Vol. II.

Spring-Guns.

AS to the common-law right to set spring-guns, &c., see *Game*, Vol. II.

By the 7 & 8 Geo. IV. c. 18, s. 1, reciting, "whereas it is expedient to prohibit the setting of spring-guns and man-traps, and other engines calculated to destroy human life, or inflict grievous bodily harm," it is enacted, "that, from and after the passing of this act, if any person shall set or place, or cause to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life, or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, the person so setting or placing, or causing to be so set or placed, such gun, trap, or engine as aforesaid, shall be guilty of a misdemeanor."

Sect. 2 provides and enacts, "that nothing herein contained shall extend to make it illegal to set any gin or trap such as may have been or may be usually set with the intent of destroying vermin."

Sect. 3 enacts and declares, "that if any person shall knowingly and wilfully permit any such spring-gun, man-trap, or other engine as aforesaid, which may have been set, fixed, or left in any place then being in or afterwards coming into his or her possession or occupation, by some other person or persons, to continue so set or fixed, the person so permitting the same to continue shall be deemed to have set and fixed such gun, trap, or engine, with such intent as aforesaid."

Sect. 4 provides and enacts, "that nothing in this act shall be deemed or construed to make it a misdemeanor, within the meaning of this act, to set or cause to be set, or to be continued set, from sunset to sunrise, any spring-gun, man-trap, or other engine which shall be set, or caused or continued to be set, in a dwelling-house, for the protection thereof."

Sect. 5 provides and enacts, "that nothing in this act contained shall in any manner affect or authorize any proceedings in any civil or criminal court, touching any matter or thing done or committed previous to the passing of this act."

Sect. 6 provides and enacts, "that nothing in this act contained shall extend or be construed to extend to that part of the United Kingdom called Scotland."

Right to set.

Persons setting or placing spring-guns, man traps, &c., guilty of a misdemeanor.

Provision for traps for destroying vermin.

Persons permitting guns, traps, &c. set by others, to continue, deemed to have set the same.

Proviso for guns, traps, &c. set for the protection of dwelling-houses.

Not to affect proceedings already commenced.

Not to extend to Scotland.

— *The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., with force and arms, at, &c., knowingly and unlawfully did set and place, and cause to be set and placed, in a certain [garden] of him, the said C. D., there situate, a spring-gun, being an engine calculated to inflict grievous bodily harm, the same being then and there loaded with gunpowder and leaden shot, with intent then and there that the same might inflict grievous bodily harm upon a trespasser or other person coming in contact therewith, against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity.* [Add a second count, inserting the words "whereby the same," instead of the words "with intent that the same."]

Indictment for unlawfully setting a spring-gun.

Squibs. See *Fireworks*, Vol. II.

Stabbing. See *Homicide*, Vol. III.; *Malicious Injuries to Persons*, Vol. III.

Stage-Coaches.

See *Carriers*, Vol. I. p. 558.

As to the tolls of stage-coaches, see *Highways*, Vol. III. p. 165 to 191.

As to the duty on post-horses drawing stages, see, *ante*, *Post-Horses*, p. 159, 160.

As to the liability for loss of parcels not insured, see the 1 Wil. IV. c. 68.

As to the rates of carriage of parcels, &c., see *Carriers*, Vol. I. p. 559.

As to stating the proprietorship of stage-coaches, see *Indictment*, Vol. III. p. 341.

As to the place of trial where offences are on borders of counties, &c., see *Indictment*, Vol. III. p. 330, 331.

I. Duties and Licenses, Plates, Names of Owners, &c., p. 536.

[25 Geo. III. c. 51, s. 49; 55 Geo. III. c. 185, s. 1, 11, 12; 3 Geo. IV. c. 95; 7 Geo. IV. c. 33: 9 Geo. IV. c. 49, s. 17, 18.]

II. Numbers of Passengers, Luggage, Misbehaviour of Drivers, Furious Driving, &c., p. 547 to 556.

[50 Geo. III. c. 48; 1 Geo. IV. c. 4; 3 Geo. IV. c. 95; 9 Geo. IV. c. 49, s. 16.]

III. Forms, List of, p. 556.

I. Duties and Licenses, Plates, Names of Owners, &c.

Duties on certain stage coaches repealed, 55 Geo. 3, c. 185.

By the 3 Geo. IV. c. 95, s. 1, it is enacted, "that, from and after the 1st day of September, 1822, the duties mentioned in the schedule annexed to the act of the fifty-fifth year of the reign of Geo. III., and thereby made payable upon stage coaches, or other carriages, with two or more wheels, which should be employed as public stage-coaches or carriages for conveying passengers for hire to or to and from any place or places in Great Britain, as far as the same relates to carriages or vehicles drawn by one or two horses, and not being upon, or having the aid or assistance of, any spring or springs, or (if drawn by one horse) being upon, or having the aid or assistance of, any spring or springs, or, if drawn by two or more horses, and such carriages or vehicles shall be made for the accommodation of one description of passengers only, not distinguishing between inside and outside passengers, and shall be upon, or have the aid or assistance of any spring or springs, shall cease, determine, and be repealed; save and except as to so much and such part of the said duties as shall have become due or payable before or upon the said 1st day of September, and shall remain in arrear or unpaid afterwards."

New duties.

Sect. 2 enacts, "that, from and after the said 1st day of September, in lieu of so much of the said duties hereby repealed, there shall be raised, levied, collected, and paid, unto and for the use of his majesty, his heirs and successors, in and throughout the whole of Great Britain, the rates and duties, or sums of money, following: that is to say, for and in respect of any carriage or vehicle with two or more wheels, not being upon, or not having the aid or assistance of, any spring or springs of any kind whatsoever, and which shall be kept, used, employed, or let out, for the purpose of conveying passengers for hire to or from or from and to different places in Great Britain, and drawn by one horse only, for every mile that any such carriage or vehicle shall be licensed to travel, the sum of 1*d.*; any such carriage or vehicle as above described, drawn by two horses only, for every mile that such carriage or vehicle shall be licensed to travel, the sum of 2*d.*; any carriage or vehicle drawn by one horse only, being upon or having the aid or assistance of any spring or springs of any kind whatsoever, which shall be kept, used, employed, or let out, for the purpose of conveying passengers for hire, as aforesaid, for every mile that any such carriage or vehicle shall be licensed to travel, the sum of

1½d.; any carriage or vehicle drawn by two horses only, being upon or having the aid or assistance of any spring or springs of any kind whatsoever, but which shall be made for the accommodation of one description of passengers only, not distinguishing between inside and outside passengers, and which shall be kept, used, employed, or let out, for the purpose of conveying passengers for hire, as aforesaid, for every mile that such carriage or vehicle shall be licensed to travel, the sum of 3d.; any such carriage or vehicle as last aforesaid, drawn by three or more horses, for every mile that such carriage or vehicle shall be licensed to travel, the sum of 4½d."

**DUTIES AND
LICENSES, &c.**
3 Geo. 4, c. 93.

Sect. 3. "That, immediately from and after the passing of this act, the commissioners of stamps in Great Britain, or the major part of them, are hereby directed and required to provide proper and sufficient plates, at the expense of the person or persons applying for a license to keep, use, employ, or let out, any carriage or vehicle for the purpose of conveying passengers for hire to or to and from any place or places in Great Britain; each plate or pair of plates having thereupon a distinct number, to be named by the said commissioners, for the purpose of being fixed or placed upon the door, or, if more than one, upon each door, or upon some other part or parts, of every carriage or vehicle used, employed, or let out, for the purpose of carrying and conveying passengers for hire, as aforesaid (except mail coaches and hackney coaches duly licensed by the commissioners of hackney coaches, or under any local act or acts relating to hackney coaches, and not licensed by the said commissioners of stamps); and to alter and renew such plate or plates from time to time, as the said commissioners of stamps shall think necessary, or as occasion shall require; and the said commissioners or any other persons authorized so to do, granting any such license as aforesaid, are hereby required and directed to deliver to the person or persons applying for such license, at the time of granting the same, or at any other time, as occasion may require, such plate or plates to be placed or fixed upon every such carriage or vehicle as aforesaid, and to insert or cause to be inserted in the said license, the number of the plate or plates so delivered in respect of such carriage or vehicle in respect of which such license shall be granted."

Plates to be placed on carriages.

May be renewed.

Sect. 4. "That it shall not be lawful for any person or persons to use, employ, or let out, or to permit or suffer to be used, employed, or let out, any carriage or vehicle for the purpose of conveying passengers for hire as aforesaid, before fixing or placing, or causing to be fixed or placed on the door, or if more than one, upon each door, or if there be no door, upon one of the pannels on each side of such carriage or vehicle, or if there be no pannels, then upon some conspicuous part or parts of such carriage or vehicle, one of the plates hereby required to be fixed and placed thereupon; and in case such plate shall at any time be broken or become illegible, the person or persons to whom any such license as aforesaid shall be granted, shall, within three days after such plate shall be broken or illegible, apply to the said commissioners of stamps, or to the person authorized to grant such license, for a new plate, or new plates; and on delivery to the said commissioners, or to the person authorized to grant such license, of the old plate or plates, or part thereof, it shall be lawful for the said commissioners of stamps, and they are hereby authorized and empowered, to deliver a new plate or new plates of the same, or any other number, to the person or persons whose plate or plates shall have been broken or become illegible as aforesaid, which new plate or new plates such person or persons is and are hereby directed and required, as soon as conveniently may be after the receipt thereof, to affix or place, or cause to be affixed or placed, on such carriage or vehicle, as by this act is directed." See, further, the 7 Geo. IV. c. 33, *post*.

Plates to be affixed on each door of such carriages.

New plates, in what cases.

Sect. 5. "That if any person or persons shall keep, use, employ, or let out, or permit or suffer to be used, employed, or let out, any carriage or vehicle for the purpose of conveying any passenger or passengers for hire to or from or from and to different places in Great Britain, not having the plate or plates fixed or placed thereupon as hereby directed, or having any plate or plates fixed or placed on such carriage or vehicle as aforesaid, of a different or other number than that mentioned in the license granted to such person or person, †

Not having such plates.

† &c.

DUTIES AND
LICENSES, &c.3 Geo. 4, c. 95.
Penalty, 20*l*.

Proviso.

or having any broken or illegible plate or plates on any such carriage or vehicle, such person or persons so offending in any or either of the said cases, shall forfeit, for every day on which such carriage or vehicle shall be so used, employed, or let out for hire, the sum of 20*l*.: provided nevertheless, that nothing herein contained shall be construed to charge any person or persons with the said penalty of 20*l*., to which he, she, or they may become subject, between the time of any such plate or plates having been broken or become illegible, and the time hereby allowed for affixing or placing a new plate or plates on such carriage or vehicle as aforesaid, in the place of any plate or plates that may have become broken or illegible." See, further, the 7 Geo. IV. c. 33, *post*.

What shall be
deemed a stage-
coach.

Sect. 6. "That every carriage or vehicle used, employed, or let out for the purpose of conveying passengers for hire to or from or from and to any place or places in Great Britain, and travelling at the rate of three or more miles in the hour, shall, without regard to the number of wheels or to the number of horses by which the same may be drawn, or to the number of passengers which the same shall or may be able or fitted to contain or carry, or to its being an open or close carriage, be deemed and taken to be a stage-coach or carriage within the meaning of this act, or any former act or acts of Parliament relating to the duties on carriages or vehicles kept, used, and employed, or let out for the purpose of conveying passengers for hire as aforesaid; provided the passenger or passengers to be carried or conveyed by any such carriage or vehicle, shall be charged or shall pay separate and distinct fares, or a separate and distinct fare, or be charged at the rate of separate and distinct fares, for his, her, or their place or seat, or places or seats therein, or conveyance thereby respectively."

Proviso for dis-
tinct fares.

What shall be
deemed a car-
riage or vehicle
within the mean-
ing of this act in
action, &c.
brought.

Sect. 7. "That in all actions, bills, complaints, informations, or proceedings, to be commenced, prosecuted, entered, or filed, in any of his majesty's courts of Great Britain, or before any justice of the peace or other magistrate whatsoever in Great Britain, against any person or persons, for the recovery of any duty, fine, penalty, or forfeiture, incurred under or by force of this act, or any former act or acts of Parliament relating to the duties on carriages or vehicles, kept, used, employed, or let for the purpose of conveying passengers for hire as aforesaid, if evidence shall be offered and given that the carriage or vehicle in respect of which, or in any manner relating to which any such action, bill, complaint, information, or proceeding, shall be commenced, prosecuted, entered, or filed, was seen travelling or going upon any turnpike road or public highway in Great Britain, such carriage or vehicle having fixed or placed thereupon a plate or plates as required by this act to be fixed or placed upon carriages or vehicles used, employed, or let out, for the purpose of conveying passengers for hire, or having painted or marked thereupon any of the particulars required by any former act or acts of Parliament relating to such carriages or vehicles, such carriages or vehicles shall (unless the contrary be proved) be deemed and taken to be a carriage or vehicle kept, used, employed, and let out, for the purpose of conveying passengers for hire to or from or from and to different places in Great Britain; and that in all such actions, bills, complaints, informations, or proceedings, the person or persons described in the license granted in respect of such carriage or vehicle shall (unless the contrary be proved) be considered as the person or persons to whom such carriage or vehicle doth belong, and shall be liable to the duty or duties, penalty or penalties, imposed by this act, or any former act or acts of Parliament, relating to the duties on such carriages or vehicles as aforesaid."

Who shall be
deemed in such
actions, &c. the
person to whom
carriage belongs.

Persons author-
ized to examine
plates, may enter
toll-houses.

Sect. 8. "That it shall and may be lawful for any person or persons duly authorized to examine the plates by this act directed to be fixed and placed upon carriages or vehicles used or employed for the purpose of conveying passengers for hire, from time to time to enter into and remain in any toll-house or other place, at the gate or bar of which any toll is by law payable, for the purpose of examining such plates."

Toll-collectors or
others impeding
persons execut-
ing this act,

Sect. 9. "That if any toll-collector or toll-gate keeper, or any other person or persons, shall refuse to permit any person or persons authorized to examine the plates directed to be fixed and placed upon carriages or vehicles, used, em-

ployed, or let out, for the purpose of conveying passengers for hire, from time to time to enter into and remain in any toll-house or other place, at the bar or gate of which any toll is by law payable; or shall obstruct, or hinder, or molest such person or persons in entering into and remaining in such toll-house or place, as aforesaid, for the purpose of examining such plates; or if any toll-collector or toll-gate keeper, or any other person or persons, shall in any way hinder, molest, interrupt, or disturb any such person or persons authorized to examine such plates, in the reasonable use of such toll-house or other place, as aforesaid, for the purpose aforesaid, every such toll-collector or toll-gate keeper, and every person aiding and assisting such toll-collector or toll-gate keeper, and every person offending in any of the cases aforesaid, shall, for every such offence, forfeit the sum of 20*l*."

DUTIES AND
LICENSES, &c.
3 Geo. 4, c. 98.

Penalty, 20*l*.

Sect. 10. "That every carriage or vehicle for or in respect or on account whereof any duty is imposed, or which shall become due and payable under or by virtue of this act, or by the said act of the 55 Geo. III. c. 185, and the schedule thereto, and all and every the horse or horses, and harness, and all other articles and things used or employed for the purpose of drawing such carriage or vehicle as aforesaid, in the custody and possession of the person or persons, or any of them, to whom any such license shall have been granted as aforesaid, or in the custody or possession of any other person or persons, to the use and for the account of or in trust for such person or persons, to whom any such license shall have been granted as aforesaid, or any of them, shall be and the same are hereby made subject and liable to, and chargeable with all the duties in arrear and owing, or which shall become due and payable from time to time from or by such person or persons, for or in respect of such carriage or vehicle kept, used, or employed by him, her, or them respectively, for the purpose of conveying passengers for hire, as aforesaid."

Carriages, horses,
&c. made liable
for payment of
duty.

Sect. 11 relates to the misbehaviour of drivers, &c. See the provision, *post*.

Sect. 12, after reciting that "in cases where such carriages or other vehicles are employed for the conveyance of passengers and goods between places lying distant from each other, it usually happens that the property in such carriages or other vehicles is in several persons, who reside at different points of the line of journey performed by such carriage or other vehicle, and the residences of some of whom is† at a great distance from some of the places through which such carriage or other vehicle passes, or at which it arrives, and by reason of such distance such last-mentioned proprietor or proprietors have not the means of exercising the same superintendence and control over the management of such carriage or other vehicle, in distant parts of its journeys, as such of the proprietor or proprietors as have their residence nearer thereto: and whereas it is expedient, that in all cases of informations and convictions for offences against this act or any former act, such information and conviction should be had and laid against such one or more of the owner or owners, proprietor or proprietors of such carriages or other vehicles, as are resident nearest to the place where the offence shall be committed;" enacts, "that from and after the passing of this act, all summonses, informations, and convictions, which shall be issued, laid, or prosecuted against any owner or owners, proprietor or proprietors of any coach, carriage, or other vehicle, under or by virtue of this act, or any former act, for the recovery of any fine or penalty hereby or thereby imposed, shall in all cases in which there shall be more than one such owner or proprietor, and when such owners or proprietors shall reside in different counties (the residence of such owner or proprietor being ascertained by the entry at the stamp-office, or other place from which the license to such owner or proprietor was issued), be so issued, laid, or prosecuted against such one or more of the said owners or proprietors as shall reside in the county or place in which, or nearest to which the offence proceeded against shall have been or shall be alleged to have been committed; and that in all such cases as aforesaid, this present act shall and may be allowed and pleaded in bar to the conviction of any such owner or owners, proprietor or proprietors as aforesaid, other than and except of such owner or owners, proprietor or proprietors, whose residence shall be in the county or place in which, or nearest to which, the offence so

† *Stc.*

Informations to
be laid against
the nearest pro-
prietor.

In what cases this
act may be
pleaded in bar to
conviction.

DUTIES AND
LICENSES, &c.

3 Geo. 4, c. 95.

Drivers of stage-coaches taking up passengers after entering the paved streets, &c. deemed per sons plying for hire under 1 Geo. 1, st. 2, c. 57.

proceeded against shall have been or shall be alleged to have been committed; any thing herein or in any former act contained to the contrary thereof notwithstanding."

Sect. 13, reciting that "difficulties have arisen in proceedings for penalties under a certain act made and passed in the first year of the reign of King George the First, intituled 'An Act for better regulating Hackney Coaches, Carts, Drays, and Waggon, within the Cities of London and Westminster, and the Weekly Bills of Mortality; and for preventing Mischiefs occasioned by the Drivers riding upon such Carts, Drays, Cars, and Waggon;' by reason of the person or persons giving information being unable to prove the payment of the fare paid or to be paid by any person or persons carried in or upon any coach or other carriage used for the purpose of conveying passengers for hire;" enacts, "that from and after the passing of this act, in all cases where any coach or other carriage used for the purpose of conveying passengers for hire, shall take up any passenger or passengers after such coach or other carriage shall have entered the paved streets of London, Westminster, or the borough of Southwark, and shall carry and convey such passenger or passengers along the said paved streets, or any of them, the proprietor of such coach or carriage, or the driver thereof, shall be deemed and taken to be a person standing, driving, and plying for hire within the meaning of that act, unless the contrary shall be shown."

Sect. 15. "That all the powers, provisions, clauses, regulations, and directions, fines, forfeitures, pains, and penalties contained in and imposed by the several acts of Parliament, or any of them, relating to the duties upon stage-coaches or other carriages used for the purpose of conveying passengers for hire, shall be of full force and effect with respect to the duties hereby granted, as far as the same are or shall be applicable, in all cases not hereby expressly provided for; and shall be observed, applied, enforced, and put in execution for the raising, levying, collecting, and securing the duties on carriages or vehicles kept, used, employed, or let out for hire, for the purpose of conveying passengers as aforesaid, granted by the said act of the fifty-fifth year of the reign of his said late majesty and the schedules thereto, and the said duties hereby granted, so far as the said acts of Parliament, or any of them, shall not be repealed or be superseded by, and shall be consistent with the express provisions of this act, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted with reference to the said duties granted by the said act of the fifty-fifth year of the reign of his said late majesty, and the said schedule thereto, and also to the duties hereby granted."

Powers of former acts relating to duties on stage-coaches, &c. extended to this act.

44 Geo. 3, c. 86, s. 1.

44 Geo. 3, c. 96, sch. (B.), in part repealed.

Hackney-coaches employed as stage-coaches licensed by commissioners of stamps.

The 55 Geo. III. c. 185, s. 11, enacts, that "all such parts of any act or acts of Parliament as authorize the commissioners of hackney-coaches to license any hackney-coaches to be used as stage-coaches, and as exempt the owners of hackney-coaches already so licensed, from taking out licenses from the commissioners of stamps; and from the payment of the mileage duties on stage-coaches, and from the provisions of any act or acts relating to stage-coaches, shall be and the same are hereby repealed: and that the owners of hackney-coaches now employed as stage-coaches, shall be liable to take out licenses from the commissioners of stamps, and be subject to such and the same duties and to such and the same provisions and regulations as the owners of any other stage-coaches."

Stage-coaches not prohibited from taking up passengers in bills of mortality.

Sect. 12. "That from and after the passing of this act, none of the provisions of any act or acts of Parliament relating to hackney-coaches, shall be deemed or construed to extend to prevent the owners or drivers of stage-coaches, duly licensed by the commissioners of stamps, and paying the mileage duty, from taking up passengers, within the bills of mortality, out of the paved streets of London or Westminster, or borough of Southwark, and any continuation thereof, so that they do not deviate from their regular road for that purpose."

25 Geo. 3, c. 51, Stages, &c. to be entered in the license.

And by the 25 Geo. III. c. 51, s. 49, every person shall, at the time of receiving such license, declare from what place and to what place such carriage

is intended to be used, distinguishing the number of miles between the two extreme towns or places such carriage is intended to go, and the number of journeys the same is intended to be used, either in the day or in the week, that the same may be inserted in such license; and such person shall give bond to his majesty in 20*l.* or treble the sum the duty for the journeys inserted in such license for one month would amount unto, at the option of the commissioners, for accounting for and paying such sums as may be due for such journeys.

**DUTIES AND
LICENSES, &c.**

By the 7 Geo. IV. c. 33, entitled "An Act to make further Regulations relating to the Licensing of Stage Coaches," after reciting that, "it is expedient to repeal certain parts of the 25 Geo. III. c. 51, and also to limit the number of passengers allowed to be carried for hire in any carriage or vehicle drawn by one horse, and to make further provision respecting the plates directed to be placed upon carriages or vehicles used for the purpose of conveying passengers for hire, and to provide for the better protection and recovery of the duties payable in respect of such carriages or vehicles," it is enacted "that from and after the passing of this act, so much of the said recited act as enacts, that all and every person or persons licensed to let out for hire any coach, diligence, or other carriage, shall give security by bond to his majesty, his heirs, and successors, in the sum of 20*l.*, or in treble the sum to which the journeys inserted in such licenses for one month would amount unto; and also so much of the said act as enacts that no person or persons licensed as thereby directed, shall, by virtue of one license, keep more than one coach, diligence, or other carriage, shall be and the same is hereby repealed."

7 Geo. 4, c. 33.

So much of 25 Geo. 3, c. 51, as directs that persons letting coaches to hire shall give bond, and that one license shall apply to one coach only, repealed.

Section 2. "That from and after the passing of this act it shall not be lawful for any person or persons licensed to keep, use, employ, and let out any carriage or vehicle for the purpose of conveying passengers for hire at separate fares, having four wheels, and to be drawn by one horse or mule only, to carry or convey therein or thereby more than six passengers, or having two wheels, and to be drawn by one horse or mule only, to carry or convey therein or thereby more than four passengers."

Limiting the number of passengers to be carried for hire in vehicles drawn by one horse.

Section 3. "That when any person or persons to whom any license to keep, use, employ, and let out any carriage or vehicle for the purpose of conveying passengers for hire shall have been granted, shall, at the time of paying his, her, or their monthly account of duties, be desirous of giving up such license, or of altering or varying the journey or number of journeys mentioned in the first license, or the mode of performing such journey or journeys, he, she, or they may give notice in writing to that effect at the office or place at which his, her, or their license was granted, or to the person authorized to receive such duties, the terms of which notice shall be indorsed upon the back of such his, her, or their license; and when such license shall be given up, and the plate or plates mentioned in such license re-delivered to the commissioners of stamps, or to any person authorized to receive the same, and the use, employment, or letting out for hire of such carriage or vehicle as aforesaid be discontinued, such person or persons shall not be charged or chargeable with the duties payable in respect of such carriage or vehicle subsequently to the expiration of such notice; and when the number of journeys mentioned in such license, or indorsed thereupon, shall have been altered or varied, such person or persons shall, at the expiration of such notice, be charged and chargeable with the duties payable in respect of the journeys thereafter to be performed by such carriage or vehicle: provided always, that no license shall cease under or by virtue of any notice to be given at a less period than one month after the first using, employing, or letting out to hire any carriage or vehicle under the said license, but that duty in respect of such carriage or vehicle shall at least be paid for one month after the first using, employing, or letting out to hire the same, according to the number of miles, as expressed in the said license, to be travelled by such coach or vehicle in the course of any one week of the said month, in the same manner as if the said carriage or vehicle had been used, employed, and let out to hire for the whole period of one month; and the amount of duties for that month shall, if necessary, be claimed and described as a debt due to his majesty, his heirs, and successors, and shall and may be sued for and recovered accordingly."

Mode of proceeding on giving up or altering licenses.

Not less than a month's duty to be paid on any license.

DUTIES AND
LICENSES, &c.

7 Geo. 4, c. 33.

Plates to be
furnished gratis.

3 Geo. 4, c. 95.

Sect. 4. "That from and after the passing of this act the commissioners of stamps are hereby directed and required to deliver, *gratis*, to the person or persons taking out a license for the first time, the plate or plates required by an act passed in the third year of the reign of his present majesty, intituled "An Act to reduce the Rate of Duties payable in respect of certain Carriages used and employed for the purpose of conveying Passengers for hire, and to make Regulations and Provisions relating to Stage-Coaches, and the Duties thereon," to be placed upon the coach or vehicle mentioned in such license; and also to deliver *gratis* to the person or persons taking out any fresh license, upon the alteration of the name or names of the person or persons mentioned in the former license, or of the description of the journey or journeys to be performed by the coach or vehicle therein mentioned, or upon the alteration of the number of such plate or plates, by reason of the former number having become illegible, or of one or both plates having been broken or lost, or upon any other occasion which may require a new plate or plates."

Separate license
for every plate or
pair of plates.

Sect. 5. "That from and after the passing of this act it shall not be lawful for any person or persons licensed to keep, use, employ, or let out any carriage or vehicle for the purpose of conveying passengers for hire as aforesaid, to use more than one plate or one pair of plates by virtue of one license, but that for every plate or pair of plates there shall be a separate and distinct license."

Where plates to
be fixed.

Sect. 6. "That the plate or plates required by the said act of the third year of his present majesty to be fixed and placed upon the door or doors of any carriage or vehicle, shall be placed on the centre of the pannel or pannels of such door or doors, or upon each of the fore quarters of such carriage or vehicle, at the lower angle of such fore quarter, adjoining such doors respectively; or if there be no door to such carriage or vehicle, then, if the same shall be drawn by two or more horses, upon one of the pannels of each side of such carriage or vehicle, or if the carriage or vehicle shall be drawn by one horse only, then upon the centre of the hind part or pannel of such carriage or vehicle, or if there be no door to such carriage or vehicle, then upon some conspicuous part of such carriage or vehicle; or if the said commissioners of stamps, or any person authorized by them to collect the stage-coach duties, or any of their inspectors or other officers, shall be dissatisfied with the position of the plate or plates, and shall direct the same to be placed on some other conspicuous part of such carriage or vehicle, then such plate or plates shall be fixed and placed upon such part of such carriage or vehicle, according to such direction."

Commissioners
may require illegi-
ble plates to be
shown up for new
ones.

Sect. 7. "That when any of the numbers marked on any plate or plates shall, in the opinion of the said commissioners of stamps, or of any person authorized by them to receive the stage-coach duties, or of any of their inspectors or officers, have become illegible, it shall be lawful for the said commissioners or other person authorized as aforesaid, or any inspector or officer as aforesaid, and they are hereby required, to give notice to the person or persons to whom the license relating to the same plate or plates shall have been granted, that the number upon such plate or plates is illegible, and the person or persons to whom such license shall have been granted is and are hereby required, within three days after such notice shall have been given, to deliver up to the said commissioners of stamps, or to the proper officer duly authorized to grant licenses, such illegible plate or plates, and apply for a fresh license, and a new plate or new plates."

Duties to be pay-
able according to
the licenses, un-
less it shall be
shown that such
amount is not
due.

Sect. 8. "That in all actions, bills, complaints, informations, or proceedings to be commenced, prosecuted, entered, or filed in any of his majesty's courts of Great Britain, or before any justice of the peace or other magistrate whatsoever, in Great Britain, against any person or persons, for the recovery of any duty payable in respect of any carriage or vehicle kept, used, employed, and let out for the purpose of conveying passengers for hire, the amount of duty, calculated according to the journey or number of journeys mentioned in the license or licenses relating to such carriage or vehicle, shall be deemed and taken to be the amount of duty due and payable in respect of such carriage or vehicle, unless such person or persons shall show that the amount of the said duty, or some part thereof, hath not become due and payable."

Penalty for forg-
ing or using
forged plates.

Sect. 9. "That if any person shall forge, counterfeit, or resemble, or cause or

procure to be forged, counterfeited, or resembled, any plate or any part of any plate, which shall have been provided or used in pursuance of this act or any other act, or shall wilfully fix or place, or cause, permit, or suffer to be fixed or placed, to or upon the door, or one of the doors, or upon any other part of any carriage or vehicle kept, used, employed, or let out for the purpose of conveying passengers for hire, any forged or counterfeited plate, or part of any plate, every such person shall for every such offence forfeit the sum of 100*l*."

DUTIES AND
LICENSES, &c.
7 Geo. 4, c. 33.

Sect. 10. "That if any person or persons to whom any license to keep, use, employ, and let out any carriage or vehicle for the purpose of conveying passengers for hire shall be granted, shall, before using, employing, or letting out for hire any such carriage or vehicle, neglect to fix or place, or to cause to be fixed or placed, upon the said carriage or vehicle, in manner herein directed, the plate or plates directed to be fixed and placed thereon; or if such person or persons, after having received notice in manner hereinbefore mentioned, that the numbers on the plate or plates are illegible, shall not, within three days after such notice shall have been given, deliver up such illegible plate or plates, and apply for a fresh license and a new plate or plates, as hereinbefore directed, and fix or place the same upon the carriage or vehicle in manner herein directed, every such person or persons so offending shall for every such offence forfeit and pay the sum of 20*l*."

Penalty for using carriages with plates not fixed, or for not giving up illegible plates.

Sect. 11. "That if any person or persons licensed to keep, use, employ, and let out for hire as aforesaid, any carriage or vehicle having four wheels and drawn by one horse or mule only, shall carry or convey therein or thereby more than six passengers, or if any person or persons licensed to keep, use, employ, and let out for hire any carriage or vehicle having two wheels and drawn by one horse or mule only, shall carry or convey therein or thereby more than four passengers, every such person so offending shall for every such offence forfeit and pay the sum of 20*l*."

Penalty for carrying more than the prescribed number of passengers.

Sect. 12. "That if any person or persons to whom any license to keep, use, employ, and let out any carriage or vehicle for the purpose of conveying passengers for hire, shall, from and after the passing of this act, permit or suffer such carriage or vehicle to perform a greater number of journeys than is allowed by such license, or to be used for the performing any different journey or journeys, or a greater number of miles than is or are mentioned in such license, or shall fix or place upon such carriage or vehicle a plate or plates, having a number different from that mentioned in the license in force at the time of using such carriage or vehicle, such person or persons shall be deemed and taken to be a person or persons keeping, using, employing, and letting out a carriage or vehicle for the purpose of conveying passengers for hire, without having first duly obtained a license within the true intent and meaning of the said recited act of the twenty-fifth year of his late majesty."

Persons using carriages contrary to license, to be deemed to be using them without a license.

Sect. 13. "That if any person or persons duly licensed to use, employ, and let out any carriage or vehicle for the purpose of conveying passengers for hire as aforesaid, shall, in any account to be delivered by him, her, or them to the said commissioners of stamps, or such officer as they shall appoint in that behalf, under or by virtue of the said act of the twenty-fifth year of his late majesty, of the number of journeys actually made in a day by such carriage or vehicle, where the same shall differ from the number expressed in the license, shall neglect or omit to insert therein any journey actually made by such carriage or vehicle, every such person or persons shall for every such journey so omitted forfeit and pay the sum of 5*l*."

Penalty on persons omitting any journey in account delivered under 25 Geo. 3, c. 61.

Sect. 14. "That if any driver or other person having the care of any carriage or vehicle kept, used, or employed for the purpose of conveying passengers for hire as aforesaid, shall suffer the plate or plates fixed and placed thereon as hereby directed, to be concealed from public view by any coat, cloak, cloth, or other thing placed over it, such driver or other person having the care of such carriage or vehicle shall forfeit and pay the sum of 5*l*.; and in case such driver or other person having the care of such carriage or other vehicle shall not be known, or being known cannot be found, then and in every such case the owner or owners, proprietor or proprietors of such carriage or vehicle, shall be liable to such last-mentioned fine or penalty, in the same manner as if he or

Penalty on drivers concealing plates.

In certain cases, owners to be liable to penalty.

DUTIES AND
LICENSES, &c.

7 Geo. 4, c. 23.
For recovery of
duties where not
exceeding 50*l*.

they had been driving or taking care of such carriage or vehicle at the time that such offence was committed."

Sect. 15. "That from and after the passing of this act, if any person or persons liable to account for and pay any duty or duties granted by any act or acts, for or in respect of any carriage or vehicle kept, used, or employed for the purpose of conveying passengers for hire as aforesaid, shall refuse or neglect to account for and pay the same according to the directions of the said acts, to the officer appointed by the said commissioners of stamps to receive such duties, where such duty or duties shall not exceed the sum of 50*l*., it shall be lawful for any constable, tithingman, or other peace-officer of the county, riding, division, city, town, or place where such carriage shall be kept, used, or employed for the purpose of conveying passengers for hire as aforesaid, first obtaining a warrant for that purpose under the hand and seal or hands and seals of any one or more of his majesty's justices acting in and for such county, riding, division, city, town, or place (which justice or justices, on complaint made to him or them, shall summon the party complained of, and the witnesses on either side, and examine into the matter of fact, and shall grant such warrant on due proof being made of the sum due and owing for such duty or duties as aforesaid, by the voluntary confession of the party, or by the oath of one or more witness or witnesses), to distrain such person or persons by his, her, or their goods and chattels for the amount of such duty or duties, and the distress so to be taken to detain and keep for the space of five days, at the costs and charges of such person or persons; and if he, she, or they shall not within that time pay the amount of such duty or duties, with the costs and charges of taking and keeping such distress, then the goods and chattels so distrained shall be sold by such constable, tithingman, or other peace-officer, who shall render the overplus (if any) of the money arising by the sale thereof, after deducting and retaining the amount of such duty or duties, and the costs and charges of taking, keeping, and selling such distress, to the person or persons so to be distrained as aforesaid; and for the purpose of taking such distress, it shall be lawful for such constable, tithingman, or other peace-officer, when any refusal or resistance shall be made, to break open in the day-time any house or place where any goods or chattels of such persons or person shall be; and if no sufficient distress can be had or taken whereon to levy the said duties and charges, then such justice or justices shall commit such person or persons to the prison of such county, riding, division, city, town, or place, there to remain until such duties shall be fully paid and satisfied."

Penalties
amounting to 10*l*.
may be sued for
by action of
debt, &c.

Sect. 16. "That any pecuniary penalty imposed by this act or the hereinbefore mentioned acts, or either of them, which shall amount to the sum of 10*l*. or more, shall or may be sued for in any of his majesty's courts at Westminster, for any offence committed in England or Wales, or Berwick-upon-Tweed, and in his majesty's Court of Exchequer in Scotland, for any offence committed in that part of Great Britain called Scotland, by action of debt, bill, plaint, or information, wherein no essoin, protection, privilege, wager of law, or more than one imparlance shall be allowed."

Penalty on per-
sons plying for
hire with car-
riages not having
plates.

Sect. 17 enacts, "that if any carriage or vehicle shall be found standing or plying for passengers to be conveyed for hire at separate fares as aforesaid, upon any public highway, not having fixed or placed thereon a plate or plates as directed by this, or any other act, to be fixed or placed upon carriages or vehicles kept, used, employed, and let out, for the purpose of conveying passengers for hire, the owner, driver, or person, having the care of any such carriage, or other vehicle, shall forfeit and pay any sum not exceeding 20*l*.; and it shall and may be lawful to and for any constable or constables, or other person or persons whomsoever, to take and seize such carriage, or other vehicle, not having such plate or plates, with the horses or other cattle drawing the same, and lodge the same, for safe custody, at some public green-yard, or some livery stables, or other place of safety, until some one or more of his majesty's justices of the peace for the county, riding, division, city, town, or place, in which such offence shall be committed, shall hear and determine the same, and the penalty or penalties to which the owner, driver, or other person, having the care of such carriage or other vehicle, shall be liable and adjudged to pay for

such offence, with the expenses of taking and keeping such carriage and cattle at such green-yard, stables, or other place, shall be fully paid or discharged; and if such penalty or penalties be not forthwith paid, the said carriage or vehicle, horses, or other cattle, together with the harness used therewith, so taken and seized, shall be immediately sold, by order, under the hand or hands of the said justice or justices, and the surplus, if any, shall be rendered to such owner, driver, or other person; any thing in this act to the contrary thereof in anywise notwithstanding."

DUTIES,
LICENSES, &c.
7 Geo. 4, c. 33.

Sect. 18 provides and enacts, "that it shall and may be lawful to and for any justice of the peace of any county, riding, division, city, town, or place, where the offence shall be committed, to hear and determine any offence against this act, or the hereinbefore mentioned acts, or any of them, which subjects the offender to any pecuniary penalty not exceeding 20*l.*, which said justice of the peace is hereby authorized and required, upon any information exhibited, or complaint made in that behalf, to summon the party accused, and also the witnesses on either side, and to examine into the matter of fact, and upon due proof made thereof, by voluntary confession of the party, or by oath of one or more credible witness or witnesses, to give judgment or sentence for the penalty or forfeiture, and to award and issue out his warrant, under his hand and seal, for the levying any pecuniary penalties or forfeitures so adjudged on the goods of the offender, and to cause sale to be made thereof, in case they shall not be redeemed within five days, rendering to the party the overplus (if any); and where the goods of such offender cannot be found sufficient to answer the penalty, to commit such offender to prison, there to remain for the space of six months, unless such pecuniary penalty shall be sooner paid and satisfied: and if any person or persons shall find himself or themselves aggrieved by the judgment of any such justice, then he, she, or they, shall and may (upon giving security to the amount of the value of such penalty and forfeiture, together with such costs as shall be awarded in case such judgment shall be affirmed) appeal to the justices of the peace at the next general quarter sessions of the peace for the county, riding, division, city, town, or place, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment of such justices shall be affirmed, it shall be lawful for such justices to award the person or persons to pay† costs occasioned by such appeal as to them shall seem meet: provided always, that if the next general quarter sessions of the peace shall fall within six days after such conviction, it shall and may be lawful for the person so convicted, if he shall think fit, giving such security as aforesaid, to appeal to the next subsequent quarter sessions."

Justices may determine offences where penalty does not exceed 20*l.*

Appeal.

† Sic.

Sect. 19 enacts, "that all and every the carriages or vehicles kept, used, or employed, for the purpose of conveying passengers for hire as aforesaid, and all and every horse and horses, or other cattle, harness, and other articles and things used and employed for the purpose of drawing such carriages or vehicles, shall and may be seized and distrained to satisfy any arrear of duty or duties due and owing from the owner or owners, driver or drivers thereof, or the person or persons having the care or custody thereof, or licensed to keep, use, or employ the same, and also to pay and satisfy any penalty or penalties† to which any such owner or owners, driver or drivers, or other person or persons as aforesaid, may become liable to pay, under or by virtue of this or the hereinbefore mentioned acts of the twenty-fifth year of his late majesty and the third year of his present majesty."

Carriages, horses, &c. liable to be distrained for duties and penalties.

† Sic.

Sect. 20 enacts, "that if any person or persons shall be summoned as a witness or witnesses to give evidence before such justice or justices of the peace, touching any of the matters relative to this act, either on the part of the prosecutor or the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his, her, or their neglect or refusal, to be allowed of by such justice or justices of the peace, or appearing, shall refuse to be examined on oath, and give evidence before such justice or justices of the peace before whom the prosecution shall be depending, that then every such person shall forfeit, for

Penalty on witnesses not attending.

DUTIES,
LICENSES, &c.
7 Geo. 4, c. 33.
Form of conviction.

every such offence, the sum of 5*l.*, to be levied and paid in such manner and by such means as are hereinbefore directed as to other penalties."

Sect. 21. "That a conviction, in the form and to the effect following, *mutatis mutandis* (as the case shall happen to be), shall be good and effectual, to all intents and purposes whatsoever, without stating the evidence, and without alleging more than the substance of the offence, in all cases wherein such justice of the peace hath power to convict, by virtue of the present act:

"Be it remembered, that on the _____ day of _____, in the year of our Lord _____, at _____, in the county of _____, A. B. came before me, C. D., one of his majesty's justices of the peace for the said county where the offence hereinafter mentioned was committed, and informed me that E. F., of _____, in the said county of _____ [here set forth the fact for which the information is laid], whereupon the said E. F., being duly summoned to answer the said charge, appeared before me (and having heard the charge contained in the said information, acknowledged and voluntarily confessed the facts therein stated to be true), but in his [or, her] defence alleged [here setting forth the substance of the defence], or voluntarily confessed the said charge to be true, or did not make any defence against the said charge, whereupon the same was fully proved on the oath of G. H., a credible witness, or said that he [or, she] was not guilty of the said offence, whereupon the same was fully proved on the oath of G. H., a credible witness [or as the case shall be], or did not appear before me pursuant to the said summons, but the said charge was fully proved on the oath of G. H., a credible witness [or as the case shall be]; and therefore it manifestly appearing to me that the said E. F. is guilty of the offence charged in the said information, I do hereby convict him [or, her] of the said offence, and do adjudge that he [or, she] hath forfeited the sum of _____, of lawful money of Great Britain, for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in such case made and provided. Given under my hand and seal, the _____ day of _____."

Mitigation of penalties.

Provided, nevertheless, that it shall and may be lawful for the said justice or justices, when he or they shall see cause, to mitigate and lessen any such penalty or penalties as he shall think fit or reasonable (costs and charges of the officers and informers, as well in making the discovery as in prosecuting the same, being always allowed over and above such mitigation), and so as such mitigation do not reduce such penalties to less than one-fourth part of the penalty or penalties incurred over and above the said costs and charges; any thing herein contained to the contrary notwithstanding."

By whom information may be laid. (a)

Sect. 22 enacts, "that it shall be lawful for any person or persons (a) whatsoever to lay, make, and prosecute any information before any justice or justices of the peace, against any person or persons, for the recovery of any fine, penalty, or forfeiture, made or incurred by virtue of this or any other act or acts of Parliament relating to carriages or vehicles kept, used, or employed, to convey passengers for hire as aforesaid, any thing in any law or laws to the contrary thereof in anywise notwithstanding; and that all such pecuniary penalties shall be divided and distributed, if a prosecution or suit shall be commenced for the same within the space of six calendar months from the time of any such penalty being incurred, in manner following: (that is to say), one moiety thereof to his majesty, his heirs, and successors, and the other moiety thereof (with full costs of suit) to the person or persons who shall inform and sue for the same; and in default of such prosecution, within six calendar months from the time of any such penalty being incurred, then the whole thereof shall belong to his majesty, his heirs, or successors; and such moieties and penalties shall be paid into the hands of his majesty's solicitor of stamps for the time being."

Penalties belonging to his majesty to be received by justices, and paid to the clerk of the peace at the next sessions, who shall remit them to the solicitor of stamps.

Sect. 23 enacts, "that every justice, before whom any person or persons shall be convicted of any offence under or by virtue of this act or the hereinbefore recited acts, or either of them, shall take and receive the penalty or penalties, or share of the penalty or penalties belonging to his majesty, levied or

(a) But now, by the 9 Geo. 4, c. 47, ss. 17, 18, this provision, allowing any person to lay the information, is repealed. See post, p. 457.

II.] *Number of Passengers, Misbehaviour of Drivers, &c.*

547

paid under or by virtue of such conviction; and that every such justice, his executors or administrators, shall pay, or cause to be paid, all such sums which he shall take or receive, upon any conviction under or by virtue of this act, or the acts hereinbefore mentioned, or either of them as aforesaid, at the next general quarter sessions of the peace, after he shall have so taken or received the same, into the hands of the clerk of the peace, or other such like officer of the county, riding, division, city, town, or place, within which such conviction shall have been made, who is hereby directed to remit the same forthwith, without fee or reward, to the solicitor of stamps for the time being; and that every justice, his executors, or administrators, shall, immediately on such payment made to any clerk of the peace, or other such officer, transmit to the said solicitor of stamps a schedule, containing the names of the persons so convicted, the day on which they were convicted, their respective offences, and the respective sums which were levied or paid under or by virtue of such conviction."

DUTIES,
LICENSES, &c.
7 Geo. 4, c. 33.

Justices to transmit to solicitor of stamps a schedule of convictions.

By the 17th section of the 9 Geo. IV. c. 49, it is enacted, "that, from and after the passing of this act, so much of an act passed in the seventh year of the reign of his present majesty, intituled, 'An Act to make further Regulations relating to the Licensing of Stage-Coaches,' shall be repealed, whereby it is enacted, that it shall be lawful for any person or persons whatsoever, to lay, make, and prosecute any information before any justice or justices of the peace against any person or persons, for the recovery of any fine, penalty, or forfeiture made or incurred by virtue of the said act, or of any other act or acts relating to carriages or vehicles kept, used, or employed to convey passengers for hire; and so much of the said recited act is hereby repealed accordingly, to all intents and purposes whatsoever, as well with relation to any offences committed at any time before the passing of this act, for which informations or proceedings may be depending or in process at the time of the passing of this act, as with relation to any offences which may be committed at any time after the passing of this act."

Information before justices.

By the 18th section it is enacted, that justices may quash informations in all cases relative to stamps, when laid by any other person than an officer of stamps. The following is the enactment:—"That in all cases where any information shall have been laid or shall be laid before any justice or justices of the peace in Great Britain, by any person other than the solicitor of stamps in England or Scotland, or some officer of the stamp duties, for the recovery of any fine, penalty, or forfeiture made or incurred by virtue of any act or acts relating to any duties under the management of the commissioners of stamps, it shall be lawful for the person or persons against whom such information shall have been or shall be laid to apply to the justice or justices of the peace before whom the information shall have been laid, or to the justices of the peace at the general quarter sessions to which any appeal shall have been or shall be duly made from any conviction obtained or made on any such information laid by any person other than as aforesaid, to quash such information or conviction upon payment by the defendant of such costs and charges as to such justice or justices shall seem reasonable; and it shall be lawful for such justice or justices, if they shall think fit so to do, and such justice or justices are hereby authorized and empowered, upon such application, to quash such information or conviction accordingly."

Justices may quash informations laid by any other person than an officer of stamps, on payment of costs.

II. *Number of Passengers, Luggage, Misbehaviour of Drivers, Furious Driving, &c.*

The 50 Geo. III. c. 48, after reciting the 28 Geo. III. c. 57, 30 Geo. III. c. 36, and 46 Geo. III. c. 136, repeals the same.

50 Geo. 3, c. 48.

Sect. 2. "That, from and after the passing of this act, any coach, berlin, landau, chariot, diligence, calash, chaise marine, or other carriage, with four or more wheels, by what name soever the same is or shall hereafter be called or known, to be employed as a public stage-coach or carriage, for the purpose of

Number of outside passengers, &c.

MISBEHAVIOUR OF DRIVERS, &c.

50 Geo. 3, c. 48.

Proviso as to sitting on roof, &c.

Long coaches.

Penalties.

Children.

Outside passengers sitting inside.

Front.

Neither luggage nor outside passengers shall be carried, unless the coach be of the height herein mentioned.

Penalty.

No luggage, exceeding a certain height, to be carried on the roof of any coach.

conveying passengers for hire to and from different places in Great Britain, and drawn by four or more horses, shall be allowed to carry ten outside passengers and no more, exclusive of the coachman, but including the guard, where there is a guard with such coach or other carriage; and that one passenger and no more shall be allowed to sit upon the box with the coachman, and three of such passengers on the front of the roof, and the remaining six behind, in the manner the most safe and convenient for the said passengers: provided always, that no such passenger or passengers shall be allowed to sit on the luggage, or that part of the roof allotted for the same; and that all stage-coaches or other carriages above described, drawn by two or three horses, shall be allowed five outside passengers and no more, exclusive of the coachman; and that all stage-coaches called *long coaches* or *double-bodied coaches*, shall be permitted to carry eight outside passengers and no more, exclusive of the coachman, but including the guard, where there is a guard with such coach, under such fines or penalties as are by this act imposed, in cases where more outside passengers are carried than are allowed by this act; such fines and penalties to be imposed and levied upon the owner or proprietor, or the owners or proprietors of any such coach or other carriage above described, or any one or more of them, or any person driving the same, in the manner after mentioned: provided always, that no child in the lap, or under seven years of age, shall be included in or counted as one of such number, unless there shall be more than one; and if more than one, that two of such children shall be accounted equal to one grown person, and so on in the same proportion; and that no person paying as an outside passenger shall be permitted to sit or remain as an inside passenger, unless with the consent of one of the inside passengers at the least conveyed by such coach or other carriage, and next to whom such outside passenger shall be placed: and provided also, that where such coach or other carriage is of a construction peculiarly wide or commodious, and being so found shall be duly licensed for that purpose, four outside passengers instead of three shall be allowed to sit on the front of such coach or other carriage: provided always, that the number of outside passengers shall not exceed ten in all." (a) See the 7 Geo. IV. c. 33, s. 11, 12, *ante*, p. 443.

Sect. 3. "That it shall not be lawful for any driver, owner, or proprietor of any coach or other carriage above described, going or travelling for hire, to permit or suffer in any manner or way any luggage to be carried on the roof of any such coach or other carriage, or any person to ride or go as an outside passenger on or about the outside of any such coach or other carriage, the top of which shall be more than eight feet nine inches from the ground, or the bearing of which on the ground shall be less than four feet six inches from the centre of the track of the right or off wheel, to the centre of the track of the left or near wheel, under the penalty of 5*l.* for each offence, to be recovered and applied in the same manner as any penalty for more outside passengers than are allowed by this act can be recovered and applied."

Sect. 4. "That from and after the passing of this act, it shall not be lawful for any driver, owner, or proprietor of any such coach, mail-coach, or other carriage above described, going or travelling for hire, to carry or permit or suffer any parcel or parcels, or luggage whatever, exceeding two feet in height, to be conveyed on the roof of any such coach, mail-coach, or other carriage above described, drawn by four or more horses; and where carriages are drawn by two or three horses, then such luggage not to exceed eighteen inches above the roof; and every such driver so offending, and any owner or proprietor of any such coach or other carriage, where such driver is not known or cannot be found, being convicted of such offence, either by his or her own confession, the view

(a) In the case of *R. v. Barker*, 3 East, 504, it was held, on the 28 Geo. III. c. 57, that one might be convicted as the driver of a stage-coach, for permitting and suffering beyond the proper number of persons to go upon the roof of it, although he be not stated to be a driver

employed by the owner, and although he did not appear when summoned before the magistrate, in which case the second section of the act directs that the owner shall be liable to the penalty thereby laid on such driver.

of a justice of the peace or other magistrate, or the oath or oaths of one or more credible witness or witnesses, before any justice of the peace or other magistrate acting in and for the county, riding, city, town, division, or place where any offence shall be committed, (which oath every such justice or other magistrate is hereby authorized and required to administer) shall forfeit and pay the sum of 5*l.* for every inch above the space of two feet or of eighteen inches respectively above allowed; and in case the driver so offending shall be the owner of such coach, mail-coach, or other carriage above described, he shall forfeit the sum of 10*l.* for every inch above the spaces respectively above allowed; and in default of payment of the said penalties respectively, the person and persons so offending shall be committed to the common gaol or house of correction of the county, riding, city, town, division, or place where such offence shall have been committed, there to remain without bail or mainprize for the space of two months, unless such penalties shall be sooner paid: provided always, that all packages hereinbefore described, shall be so placed on the roof of such coach, mail-coach, or other carriage above described, as that no passenger or passengers shall sit thereon, under the penalty of 50*s.* for each offence; to be paid by such passenger or passengers respectively, and to be recovered and applied in the same manner as the other penalties imposed by this act, and that the division or space on the top of the coach or other carriage aforesaid allotted for luggage, shall be distinctly separated from the other part of the top of such coach or other carriage, by some railing or otherwise; and in case any such driver or owner or part owner, when required so to do, shall refuse to permit the said carriage and luggage to be measured by any justice of the peace, magistrate, constable, surveyor of any highway or turnpike-road, inspector of coaches duly authorized by the commissioners of stamps, or passenger, he shall forfeit the like penalty, to be recovered and applied in the manner hereinafter specified."

Sect. 5. "And whereas it is expedient to lower the present height of stage-coaches, in which case a greater height of luggage than two feet might be safely permitted to be carried on the outside thereof;" it is enacted, "that it shall be lawful to carry any luggage, parcel, or other package in manner hereinbefore provided for, on the roof of any coach or other carriage above described, of a greater height than two feet; provided such luggage, parcel, or other package be not a greater height from the ground, including the height of such coach, than ten feet nine inches."

Sect. 6. "That in every license to be taken out by any person who shall keep any carriage, to be employed as a public stage-coach, or other carriage above described, for the purpose of conveying passengers for hire to and from different places in Great Britain, shall be specified the number of outside passengers to be carried on or about the outside of such coach or other carriage above described, as well as the number of inside passengers to be carried therein as now by law directed; and that no such license shall in future be granted for more than the number of inside and outside passengers in all allowed by law, and that such license shall contain the name or names and the places of abode of every individual to whom such coach or other carriage shall belong, a copy of which license shall be accessible at the board or office where such license is issued, to any person or persons applying either for a copy of or for the perusal of the same."

Sect. 7. "That all and every person or persons who shall be duly licensed to keep any coach or other carriage above described, for the purpose of conveying passengers for hire to and from different places in Great Britain, (mail-coaches always excepted) shall, and he, she, or they is and are respectively directed and required to paint or cause to be painted within six months from the passing of this act, on the outside of each door of each such coach or other carriage above described, or on some other conspicuous part thereof, in legible characters of at least one inch in length, and in a different colour from the ground on which the same is painted, and in words at length, the number of outside passengers which the license obtained for such carriages respectively shall specify or express, (as well as and in like manner as the number of inside passengers as now by law directed), together with the name or names of the person or persons or the company of proprietors or firm to whom such coach

MISBEHAVIOUR OF DRIVERS, &c.
30 Geo. 3, c. 48.

Penalty.

Packages to be placed so as no passenger shall sit thereon.

Measuring luggage.

Penalty.

Luggage may be carried of a greater height than two feet, if not more than 10 feet nine inches from the ground.

Number of passengers permitted to be carried, to be specified in the license;

and to be painted on the doors of the coach.

MISBEHAVIOUR OF DRIVERS, &c.

50 Geo. 3, c. 48. Commissioners for granting licenses may order a brass plate on the side of each coach, with the owner's name, &c. instead of the above inscription. (a) Penalty.

or other carriage shall belong: (a) provided always, that it shall be lawful for any board of commissioners by whom such license shall be granted, to require, instead of such inscription, that a plate made of brass or other metal shall be fixed on the side of each coach or other carriage above described, with the name or names of the person or persons or the company of proprietors or firm, and a distinct number for each, to the end that the owner or owners and driver of such coach or carriage shall be known; and if any person, company of proprietors, or firm, shall be licensed to keep more than one coach, every one of them shall have several numbers or other marks of distinction in the same manner as if they did belong to several persons; and if any person shall blot out, obliterate, alter, or deface the number, figure, or mark of distinction appointed by the said commissioners, he shall forfeit 5*l.* for every such offence; and if any person or persons shall employ or make use of any such carriage as aforesaid, for carrying any outside passengers for hire to and from different places in Great Britain, without being licensed so to do, or without having the said words and number and name or names painted on the outside of each door of such carriage, or in such other conspicuous part thereof, and in such manner as is hereinbefore directed, or shall at any time carry more outside passengers than shall be specified or expressed in the license for using such coach or other carriage, and by the words so painted on the outside of such doors or other conspicuous part of such carriage or the numbered plate, every person so offending shall for each and every offence forfeit and pay the sum of 10*l.* for each outside passenger beyond the number hereby allowed, and double that sum if the driver or coachman be also owner or part owner, to be recovered and applied in the same manner as any other penalty imposed by this act can be recovered and applied; and every such inscription or plate, as the case may be, to be considered sufficient evidence of the parties to whom such coach or other description of carriage above enumerated doth belong, being owner or proprietor thereof."

Owners liable to penalties where drivers cannot be found.

Sect. 8. "That in case the driver of any such coach or other carriage above described, going or travelling for hire, and conveying a greater number of persons in any manner or way in the inside, or on or about the outside of any such coach or other carriage above described than are allowed by this act, or permitting more than one passenger to sit upon the box (which box shall be so constructed as not conveniently to hold more than one passenger besides the coachman), shall not be known, or being known cannot be found, then, and in every such case, the owner or owners, proprietor or proprietors, or any of them, of any such coach or other carriage above described, shall be liable to all such fines and penalties as if such owner or owners, proprietor or proprietors had been the driver only of any such coach or other carriage above described, at the time that such offence was committed: provided always, that if any such owner or proprietor shall make out to the satisfaction of the justice of the peace or other magistrate above mentioned before whom any such information shall be laid, by sufficient evidence, not resting on his own testimony, that the offence was committed by the driver of the coach or other carriage without his privy or knowledge, and that no profit, advantage, or benefit, either directly or indirectly, has accrued or could or would have accrued to such owner or proprietor therefrom, but that such offence was committed against this act by such driver in violation of his duty to the owner or proprietor, as well as against the provisions of this act, such justice of the peace or other magistrate above mentioned shall discharge the owner or proprietor from such penalty and expense, and levy the same upon the driver only, when found; and such driver, unless he pays the penalty for which he is liable in consequence of such offence, shall be committed to the common gaol or house of correction of the county, riding, city, town, division, or place where such offence shall have been committed, there to remain without bail or mainprize, for any time not exceeding six months nor less than three months, at the discretion of the justice or other

Owners relieved from penalty in certain cases.

Driver not paying.

Imprisonment.

(a) By the 9 Geo. IV. c. 49, s. 16, *post*, 556, this provision, so far as regards the names of the proprietors, is repealed.

magistrate above mentioned, by or before whom any such offender shall be convicted."

By the 3 Geo. IV. c. 95, s. 12, the information may be laid against the nearest proprietor. See the provision, *ante*, p. 539.

By the 50 Geo. III. c. 48, s. 9, it is enacted, "that any summons issued by any justice of the peace or other magistrate above mentioned, commanding any driver, owner, or proprietor, of any coach or other carriage above described, or any person or persons or company of proprietors or firm of any company to whom such coach or other carriage above described shall belong, to appear before him at such time or place as to such justice or other magistrate above mentioned shall seem meet, for any offence committed against this act, or a copy thereof, shall be deemed to be well and sufficiently served, in case either the original or a copy of such summons be left with the known or acting book-keeper for such coach or other carriage above described, in any town or place into or through which any driver offending as aforesaid shall drive such coach or other carriage."

SECT. 10. "That the driver of any such coach, mail-coach, or other carriage above described, going or travelling for hire, stopping at any place or places where assistance can be procured, shall not quit his horses or the box of such coach or other carriage above described, until a proper person or persons shall be employed to hold the horses or fore-horses, whilst such carriage stops, so as to prevent them from running away, and shall have actual hold of such horses, and that such person or persons shall hold the same until the driver has returned to his box, or until the postboy who rides one of the horses is again mounted, and has in his hands the reins for guiding the said horses; and if such driver, or such person or persons, shall neglect so to do, he or they, being duly convicted thereof by his or their confession, the view of a justice or other magistrate above mentioned, or by the oath of one or more credible witness or witnesses taken before any justice or other magistrate above mentioned, shall be subject to and forfeit and pay a penalty of not less than 10*s.* nor more than 5*l.* for each offence: provided nevertheless, that nothing in this section or clause contained shall extend, or be construed to extend, to hackney-coaches being drawn by two horses only."

SECT. 11. "That in case the driver of any such coach, mail-coach, or other carriage above described, or the person acting as guard, shall, by intoxication or by negligence or other misconduct (unavoidable accidents always excepted), endanger the safety of the passengers in their lives, their limbs, or their property, or shall not give due care or protection to any other property with which such driver or guard or either of them may be entrusted; or if any driver of any mail-coach, or any guard, shall loiter on the road, or wilfully mispend or lose time so as to retard the arrival of his majesty's mails at the next stage; or if the driver of any mail-coach shall not, in all possible cases, convey such mails at the speed of such a number of miles an hour as are fixed by the postmaster-general for the conveyance thereof, unless the circumstances of the weather or the badness of the roads, or the occurrence of any accident to the coach or horses, shall prevent the same; or if any driver or guard of any such coach, mail-coach, or other carriage, shall not duly account to his or their employers or persons authorized by them to account with such driver or guard for all monies received by him, them, or either of them, in respect of any passenger or parcel conveyed or taken by such coach or other carriage above described, then and in every such case the driver or guard (as the case may be) so offending, and being convicted thereof by his own confession, the view of a justice (in any case applicable thereto), or the oath or oaths of one or more credible witness or witnesses, before any justice or other magistrate above mentioned, shall forfeit and pay a sum not less than 5*l.* nor more than 10*l.* for every such offence, and shall return the sum or sums of money so embezzled; and in case of non-payment every such justice or other magistrate above mentioned are hereby authorized to commit such offender to the common gaol or house of cor-

MISBEH-
AVIOUR OF DRI-
VERS, &c.

30 Geo. 3, c. 48.

Summons left
with book-
keeper, &c. to be
good service.

Drivers leaving
their horses or
neglecting their
duty.

Penalty.

Drivers incap-
able of driving
from intoxica-
tion or other-
wise, or retar-
ding the mails, or
not accounting
to their employ-
ers, &c. (a)

Penalty.

Imprisonment.

(a) See the 3 Geo. IV. c. 95, s. 11, and 1 Geo. IV. c. 12, as to furious driving, *post*, p. 555.

MISBEHAVIOUR OF DRIVERS, &c.

50 Geo. 3, c. 48.

Driver insulting passengers, or exacting more than the sum to which he is legally entitled.

Penalty.

Peace-officers neglecting to execute warrants.

Penalty.

Passenger may require toll-collector to count the number of passengers, and measure the height of the luggage.

Penalty for refusal.

rection for the county, riding, city, town, division, or place where such offence shall have been committed, there to remain without bail or mainprize, for any time not exceeding six months nor less than three months, at the discretion of the justice or other magistrate above mentioned, by or before whom any such offender shall be convicted."

Sect. 12. "That in case the driver or guard of any such coach or other carriage above described, shall use abusive or insulting language to any *passenger*, (a) or shall insist on and exact more than the sum to which he is legally entitled, then, and in every such case, the driver or guard (as the case may be) so offending, and being convicted thereof by his own confession, or the oath or oaths of one or more credible witness or witnesses, before any justice or other magistrate above mentioned, shall forfeit and pay a sum not less than 5s. nor more than 40s. for every such offence; and in case of non-payment, every such justice or other magistrate above mentioned are hereby authorized to commit such offender to the common gaol or house of correction of the county, riding, city, town, division, or place where such offence shall have been committed, there to remain, without bail or mainprize, for any time not exceeding one month nor less than three days, at the discretion of the justice or other magistrate above mentioned, by or before whom any such offender shall be convicted."

Sect. 13. "That if any constable or other peace-officer shall refuse or neglect to execute any warrant granted by any justice of the peace or other magistrate above mentioned, pursuant to the directions of this act, every such person so offending, and being convicted thereof before one or more justice or justices of the peace or other magistrate or magistrates above mentioned, either by his own confession or upon the oath of one or more credible witness or witnesses (which oath such justice or justices or other magistrate or magistrates above mentioned, is and are hereby authorized and required to administer), shall, for every such offence, forfeit and pay the sum of 5l.; and in case the person so convicted doth not forthwith pay or secure to be paid the said penalty, then it shall be lawful for such justice or justices of the peace or other magistrate or magistrates above mentioned, to commit such person to the common gaol or house of correction of the county, riding, city, town, division, or place where such offence shall be committed, there to remain without bail or mainprize for any time not exceeding one month, unless the said penalty shall be sooner paid."

Sect. 14. "That from and after the passing of this act, if the driver of any coach or other carriage above described, drawn by two or more horses and going or travelling for hire, shall permit or suffer more than one person on the coach-box besides himself, and a greater number of outside passengers than according to the numbers allowed by this act to be carried or conveyed by any such coach or carriage above described respectively, it shall be lawful for any outside or inside passenger who shall have been regularly booked, and who has actually paid for his place, if conveyed by such coach or other carriage, to require the driver to stop such coach or carriage at any toll or turnpike-gate, and to require the collector of the toll at such gate to count the number of passengers, or measure or ascertain the height of the luggage upon such coach or other carriage; and if any such driver shall refuse upon the demand of any such passenger to stop any such coach or carriage, or to permit or suffer the collector at such toll or turnpike-gate who shall be so required by any such passenger, to count the number of passengers and ascertain the height of the luggage, or to make such examination, then, in every such case, the driver of such coach shall forfeit the sum of 5l. for every such refusal, and shall, if more passengers shall have been carried on such coach, or the luggage shall exceed the height allowed by this act, forfeit for every such offence, the committing whereof shall have been prohibited as aforesaid, double the penalty imposed by this

(a) It is to be observed, that this clause relates only to *passengers* at the time of the misbehaviour. If they have ceased to be such, the case is not within the act. By this the intentions of the act are frequently frustrated.

act for such offence, the one half of such penalty to belong to the toll-collector for his trouble, and the other half to the passenger; and if any toll-collector, upon being so required by any such passenger, shall neglect or refuse to make such examination, he shall forfeit and pay the sum of 5*l.* for each offence, to be levied and applied in the same manner as the other penalties imposed by this act; and if any person or persons shall endeavour to evade such examination, by descending from such coach or other carriage above described, previous to its reaching any turnpike-gate, and re-ascending after it has passed such turnpike-gate, he shall forfeit and pay the sum of 10*l.*, to be recovered in the same manner as the other penalties hereby imposed."

MISBEH-
VIOUR OF DRI-
VERS, &c.
50 Geo. 3, c. 48.

Sect. 15. "That, from and after the passing of this act, if the coachman or person having the care of any coach, mail-coach, or other carriage above described, shall permit or suffer any other person, without the consent of a proprietor, or against the consent of the passengers, to drive the same, or shall quit the box without reasonable occasion, or for a longer space of time than such occasion may require (although the reins for guiding or driving the horses be left for the time in the hands of the passenger on the box), or if the coachman or person having the care of any coach, mail-coach, or other carriage above described, shall, by furiously driving, or by any negligence or misconduct, overturn the carriage, or in any manner endanger the persons or property of the passengers, or the property of the owners or proprietors of such carriage (unavoidable accidents always excepted), every such coachman or person as aforesaid, so offending, shall, for every such offence, forfeit and pay any sum not exceeding 10*l.* nor less than 5*l.*, to be levied and applied in the same manner as the other penalties imposed by this act."

Coachmen per-
mitting other
persons to drive,
&c.

Penalty.

Sect. 16. "That in all cases where any penalties and forfeitures incurred for any offence committed against this act, shall and may be recoverable before one or more justices of the peace, or before any other magistrate above mentioned, every such justice or other magistrate above mentioned, is hereby required to administer an oath, and upon proof of any such offence, shall give judgment or sentence for the forfeiture or penalty incurred, and for the reasonable costs and charges of the prosecution; and if the same shall not be paid, shall commit the person or persons so convicted to the common gaol or house of correction for the said county, shire, borough, town corporate, or place, for any time not exceeding three months nor less than one month, at the discretion of the said justice or other magistrate above mentioned, unless such person or persons shall enter into such recognizance with such surety before such justices or justice or other magistrate, as hereinbefore† mentioned."

Penalties, how
to be recovered.

Sect. 17. "That if any justice, or other magistrate above mentioned, before whom any person shall have been convicted for any offence against the provisions of this act, shall see cause to mitigate such penalty, every such justice, or other magistrate above mentioned, may mitigate or lessen the same to any sum not exceeding one moiety of the penalty or forfeiture incurred, over and above all reasonable costs and charges expended or incurred in the prosecution; and that one half either of the whole or of the moiety of such penalty, with the said costs and charges, shall be paid to the informer for his own behoof, or to be at his disposal for public purposes, except in the special cases above provided for, and the other half shall be paid to the trustees of the roads where such offence is committed, who are hereby required in consideration thereof to direct their surveyors to watch over the due execution of this act, in the several roads to the superintendence of which they are respectively appointed."

† *Stc.* It ought
to be herein-
after.

Justices may mi-
tigate penalties.

Penalties, how to
be applied.

Sect. 18. "That if any person going or travelling as a guard to any coach, mail-coach, or other carriage above described, shall fire off the arms he is intrusted with, either while such coach or other carriage is going on the road or going through or standing in any town, otherwise than for the defence of such coach or other carriage, or the passenger or passengers therein, every such person shall, for every such offence, forfeit and pay the sum of 5*l.*, to be recovered and applied in the same manner as the other penalties imposed by this act."

Guard firing off
his arms, except
for defence.

Penalty, 5*l.*

Where no speci-
fic penalties are
provided for of-
fences, justices
may impose
them.

Sect. 19. "That in case any person or persons committing any offence against the provisions of this act, for which no specific penalties shall have

MISBEHAVIOUR OF DRIVERS, &c.
59 Geo. 3, c. 48.

been provided, he, she, or they shall forfeit and pay, at the discretion of one or more justices of the peace or of any other magistrate above mentioned, any sum not exceeding 10*l.*, nor less than 50*s.*, upon being convicted thereof on the oath or oaths of one or more credible witness or witnesses, before any justice of the peace or other magistrate above mentioned, acting in and for the county, riding, city, town, division, or place where the offence shall have been committed, or by any other justice of the peace residing in any county, riding, city, town, division, or place in which the offender shall then actually be present, upon full and satisfactory proof being exhibited before such justice of the peace or other magistrate above mentioned, on the oath of one or more credible witness or witnesses (which oath or oaths as well the justice of the peace or other magistrate above mentioned acting in and for the county, riding, city, town, division, or place where the offence shall have been committed, as such justices and other magistrates above mentioned as shall be resident in the county, riding, city, town, division, or place where the offender shall actually be present, are hereby authorized and required to administer); and in default of payment of the penalty which shall have been awarded on the conviction of such offender, he shall for every such offence be committed to the common gaol or house of correction of the county, riding, city, town, division, or place where such offence shall have been committed, or of the county, riding, city, town, division, or place where he shall actually be present (as the case may be) there to remain, without bail or mainprise, for any time not exceeding three calendar months nor less than five days, at the discretion of the justice or justices by or before whom such offender shall be convicted."

Conniving at offences.

Sect. 20. "That if any person or persons shall receive any sum or sums of money for conniving at any offence prohibited by this act, either for any single offence or for a number of such offences, or by stipulation or agreement by the day, the week, the year, or any other period of time, and shall be duly convicted thereof before one or more justices, or before any other magistrate above mentioned, he, she, or they shall forfeit the sum of 50*l.* for each offence, and in default of the payment thereof shall be committed to any house of correction for any period not exceeding three months nor less than one month."

Penalty.

Carriages of a certain description may carry an additional number of passengers.

Sect. 21. "And whereas it would materially contribute to the safety of passengers if a great part of the luggage usually conveyed by stage-coaches were conveyed in a much lower position than is generally the case at present, and the same restrictions in regard to the number of outside passengers on such stage-coaches would not be so requisite, provided no luggage was carried by them, except in the manner hereinafter mentioned;" it is enacted, "that all stage-coaches, (long-bodied coaches included) carrying no parcels or luggage whatsoever, excepting in the inside or in the front boot thereof, or in a boot behind or under the body of such carriage; and where the top of such boot behind, when the coach is empty, is not more than six feet from the ground, having obtained a special license for that purpose, and having the name of the owner or owners, and the number of outside and inside passengers thereby allowed painted or inscribed thereon, shall be permitted to carry two outside passengers more than the number of outside passengers hereby limited with respect to other coaches or carriages above described, without subjecting the drivers, owners, or proprietors of such coaches or other carriages to any of the penalties, forfeitures, fines, or punishments imposed or authorized to be imposed by this act; any thing herein contained to the contrary notwithstanding."

Limitation of actions.

Sect. 22. "That any prosecution for any offence committed against the provisions of this act, shall be commenced within the space of fourteen days after the offence shall have been committed, and that there shall be but one recovery for the same offence, except where the owner or owners of stage coaches or other carriages above described, are required to paint their names or name or sign, and to preserve the same in a clear or legible state, in which case such prosecution may be commenced at any time, and any neglect in remedying the same for the space of one month shall be considered a new offence."

Exemption of hackney-coach stages from the operation of his act.

Sect. 23. "That nothing in this act contained shall extend to, or be construed to extend to affect such hackney-coaches or their owners or drivers res-

pectively, as now are or hereafter may be licensed by the said commissioners for licensing and regulating hackney-coaches, whether such coaches be so licensed to be used and driven in the ordinary and indiscriminate work of hackney-coaches in general, in and about the streets and places within which such hackney-coaches are by law compellable to go or be driven, or are or may be licensed expressly for the purpose of being employed and driven as hackney-coach stages between the metropolis and certain villages and places in the vicinity thereof; any thing in this act contained to the contrary thereof in any wise notwithstanding."

MISBEHAVIOUR OF DRIVERS, &c.
50 Geo. 3. c. 48.

Sect. 24. "That the forms of the proceedings relative to the several matters contained in this act, which are set forth and expressed in the schedule hereto annexed, may be used upon all occasions, and with such additions or variations as may be necessary to adapt them to the particular circumstances of the case, or the place where the prosecution for the offence shall take place; and that no objection shall be allowed to be made or advantage taken on account of want of form in any such proceedings; and that such conviction, unless appealed from within fourteen days in the manner hereinafter mentioned, shall be final and conclusive." (a)

Forms of proceedings set forth in the schedule to be used.

Sect. 25. "That if any person shall find him, her, or themselves aggrieved by any determination, judgment, sentence, or conviction, which any justice or justices of the peace, or other magistrate above mentioned shall have given or made in any of the cases hereinbefore mentioned, and shall enter into a recognizance before such justice or justices, or other magistrate, with one sufficient surety, the condition whereof shall be, that such person or persons do and shall appear before the court of the next quarter sessions for the county or other place where such determination, judgment, sentence, or conviction shall have been given or made, then and there to abide the final order, judgment, and sentence of such court on the matters aforesaid, (b) then, and in every such case, such person or persons shall be at liberty to appeal to the next general quarter sessions of the peace to be holden for the said county or other place, who upon hearing the said appeal, shall have full power finally to determine the same, and to award such costs to the appellant or to the prosecutor or informer, as to such court shall seem fit to be awarded; and such last-mentioned proceedings, final judgment, and sentence, shall not be removable by writ of *certiorari* or otherwise into any other court."

Persons aggrieved may appeal to the quarter sessions.

The 3 Geo. IV. c. 95, s. 11, after reciting the 50 Geo. III. c. 48, s. 11, and that it is expedient to extend the powers given by the said recited acts, enacts, "that if the coachman, guard, or other person having the care of any such coach, mail-coach, or other carriage or vehicle as aforesaid, or employed in, upon, or about the same, shall, by intoxication, or wanton and furious driving, or any other wilful misconduct on the public highway, injure or endanger any person or persons whatever in his, her, or their life or lives, limbs or property, every such coachman or person as aforesaid, so offending, shall for every such offence be liable to the same or the like fine or penalty, to be levied, mitigated, and applied in the same or the like manner as in and by the said recited act was mentioned and provided with respect to the offences therein specified; provided that nothing in this act contained shall extend to or be construed to extend to affect hackney-coaches or chariots, or their owners or drivers respectively, duly licensed by the commissioners of hackney-coaches."

Coachmen or guards endangering the lives of persons by intoxication or furious driving, &c.

Punishment for.

The 1 Geo. IV. c. 4, intituled, "An Act for Punishing criminally Drivers of Stage-Coaches and Carriages for Accidents by their wilful Misconduct," after reciting, that by the 50 Geo. III. c. 48, divers regulations and penalties were established and imposed to carry into effect the useful and highly important purposes thereby intended, and that it is expedient to extend the provisions of the said act, and to punish criminally coachmen, or persons having the care of stage-coaches and other public carriages carrying passengers for hire, for

Persons occasioning accidents by furious driving, declared guilty of a misdemeanor.

(a) See Forms (Nos. 1, 2, 3,) *post*.

(b) As to the notice of appeal, &c. see title *Appeal*, Vol. I.

MISBEHAVIOUR OF DRIVERS, &c.

accidents occasioned by their wilful misconduct, as after mentioned; enacts, "that if any person whatever shall be maimed or otherwise injured by reason of the wanton and furious driving or racing, or by the wilful misconduct of any coachman or other person having the charge of any stage-coach or public carriage, such wanton and furious driving or racing, or wilful misconduct of such coachman or other person, shall be and the same is hereby declared to be a misdemeanor, and punishable as such by fine and imprisonment: provided always, that nothing in this act contained shall extend or be construed to extend to hackney-coaches, being drawn by two horses only, and not plying for hire as stage-coaches."

Hackney-coaches.

Names of proprietors.

By the 9 Geo. IV. c. 49, s. 16, so much of the 50 Geo. III. c. 48, as directs the names of proprietors of stage-coaches to be painted on the doors, is repealed; but nothing therein is to repeal or alter any part of the 25 Geo. III. c. 51, as to names of licensed persons being painted on the doors of coaches, &c. The following is the enactment:—"That from and after the passing of this act, so much of an act passed in the fiftieth year of the reign of his late majesty King George the Third, intituled, 'An Act to repeal Three Acts made in the Twenty-eighth, Thirtieth, and Forty-sixth Years of his present Majesty, for limiting the Number of Persons to be carried on the Outside of Stage-Coaches or other Carriages, and to enact other Regulations for carrying the Objects of the said Acts into Effect,' whereby it is enacted, that all and every person or persons who shall be duly licensed to keep any coach or other carriage for the purpose of conveying passengers for hire to and from different places in Great Britain, is and are respectively directed and required to paint, or cause to be painted, on the outside of each door of each such coach or other carriage above described, or on some other conspicuous part thereof, the name or names of the person or persons, or the company of proprietors, or firm, to whom such coach or other carriage shall belong; and so much of the said recited act is hereby repealed accordingly, to all intents and purposes whatsoever: provided always, that nothing herein contained shall extend or be construed to extend to repeal or alter any clause or provision contained in an act passed in the twenty-fifth year of the reign of his late majesty King George the Third, intituled, 'An Act for Repealing the Duties on Licenses taken out by Persons letting Horses for the Purpose of Travelling Post, and on Horses let to Hire for Travelling Post and by Time, and on Stage-Coaches, and for granting other Duties in lieu thereof, and also additional Duties on Horses let to Hire for Travelling Post and by Time,' whereby it is enacted, that all and every person or persons so licensed to use every such coach or other carriage as aforesaid, shall mark or paint, or cause to be marked or painted, on the outside pannel of each door thereof, in such manner as in the said act is mentioned, his, her, or their christian and surname, together with the name of the place from whence they set out and to which they are going."

So much of 50 Geo. 3, c. 48, as directs the names of proprietors of stage-coaches to be painted on the doors thereof, repealed.

Nothing herein to repeal or alter any part of 25 Geo. 3, c. 51, as to names of licensed persons being painted on the doors of coaches, &c.

III. Forms, List of.

- INFORMATION for Offence against 50 Geo. III. c. 48, (No. 1.)—SUMMONS thereon, (No. 2.)—CONVICTION thereon, (No. 3.)
 INFORMATION and Conviction on 50 Geo. III. c. 48, s. 2, against Drivers carrying beyond the proper Number of Outside Passengers, (No. 4.)
 INFORMATION against Owner for a like Offence, (No. 5.)
 CONVICTION on sect. 3 of same stat., for carrying Passengers or Luggage on a Coach of improper Height or Bearing, (No. 6.)
 CONVICTION on sect. 4 of same stat., for carrying Luggage above a certain Height, (No. 7.)
 CONVICTION on same sect., for not allowing Luggage to be Measured, (No. 8.)
 CONVICTION on sect. 7 of same stat., for Stage-Coach not having printed on outside the number of Passengers allowed, (No. 9.)
 CONVICTION on sect. 10 of same stat., against Drivers leaving their Horses, (No. 10.)

CONVICTION on sect. 11 of same stat., against Drivers endangering Passengers by Drunkenness, Misconduct, &c., (No. 11.)

CONVICTION on sect. 12 of same stat., against Drivers, &c., insulting or exacting from Passengers, (No. 12.)

CONVICTION on sect. 14 of same stat., against Drivers not stopping at Toll-Gates to measure Luggage, &c., (No. 13.)

CONVICTION on sect. 15 of same act, against Drivers permitting others to Drive, (No. 14.)

(No. 1.)

Be it remembered, that on the _____ day of _____, one thousand eight hundred and _____, A. B., of _____, in the said county, informeth me, [here describe the offence particularly, and follow the words of the act as near as may be]; contrary to the statute made in the fiftieth year of the reign of King George the Third, intituled "An Act for [here insert the title of this act (b)], which hath imposed a forfeiture of _____ for the said offence. Received the _____ day of _____, by me, _____ C. D.

Information for
offence against
50 Geo. 3, c. 40.
(a)

(No. 2.)

To A. B., of _____
Whereas complaint and information hath been made before me, C. D., one of his majesty's justices of the peace for the said [county, &c.], that, &c. [here state the nature and circumstances of the case, as far as it shall be necessary to show the offence, and to bring it within the authority of the justice; and, in doing that, follow the words of the act as near as may be]. These are, therefore, to require you personally to appear before me, or such other of his majesty's justices of the peace for the said [county, &c.], on the _____ day of _____ next, at the hour of _____ in the _____ noon, to answer the said complaint and information, and further to do and receive what to the law shall appertain. Herein fail not. Given under my hand and seal, this _____ day of _____, one thousand eight hundred and _____.

Summons for
person to attend
a magistrate, on
same statute. (a)

(No. 3.)

Be it remembered, that on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, at _____, in the county of _____, aforesaid, A. B. came before me, C. D., one of his majesty's justices of the peace for the said county, &c., and informed me that, &c. [here set forth the fact in the manner described by the act]; whereupon the said E. F., after being duly summoned to answer the said charge, appeared before _____, on the _____ day of _____, at _____, in the said county; and, having heard the charge contained in the said information, declared that he was not guilty of the said offence; but the same being fully proved upon the oath of G. H., a credible witness, it manifestly appears to me, the said justice, that he, the said E. F., is guilty of the offence charged upon him in the said information: it is therefore considered and adjudged by me, the said justice, that he, the said E. F., be convicted, and I do hereby convict him of the offence aforesaid; and I do hereby declare and adjudge that he, the said E. F., hath forfeited the sum of _____, of lawful money of Great Britain, for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided. Given under my hand and seal, the _____ day of _____, one thousand eight hundred and _____.

Conviction on
same statute. (a)

After the words, "being duly summoned to answer the said charge," insert, "did not appear before me pursuant to the said summons," or, "did neglect and refuse to

(a) The statute gives this form.

(b) "An Act to repeal Three Acts, made in the Twenty-eighth, Thirtieth, and Forty-sixth Years of his present Majesty, for limiting the Number of Persons to be carried on the Outside of Stage-Coaches or other Carriages, and to enact other Regulations for carrying the Objects of the said Acts into Effect."

FORMS.

make any defence against the said charge; but the same being fully proved," &c., as before. After the words, "contained in the said information," insert, "acknowledged and voluntarily confessed the same to be true, and it manifestly appears to me, the said justice," &c., as above.

(No. 4.)

Information and conviction of driver of stage-coach, for carrying beyond the proper number of inside passengers, *ante* 557, No. 3, c. 48, s. 2. (a)

——— } Be it remembered, that on, &c., at, &c., A. B. came before me, J. P., one to wit. } of his majesty's justices of the peace for the said county, and informed me that C. D., of, &c., on, &c., at, &c., in the said county, did drive a certain coach called the [Hero], being a coach with four wheels, and then drawn by four horses, and then employed as a public stage-coach for the purpose of conveying passengers for hire, and licensed to carry ten outside passengers, and no more, and having painted on the outside of the said coach the words "licensed, &c.," [as painted], and then travelling on the king's highway, and did then and there carry, and permit and suffer to be carried, on the outside of the said coach, more than the number expressed in the license for using such coach, and in the words so painted on the outside of such coach; to wit, that the said C. D. did then and there carry, permit and suffer to be carried, twelve persons, at one and the same time, exclusive of the coachman, on and about the outside of the said coach, when so going and travelling for hire, as aforesaid; none of the said persons so carried being a child in the lap, or under the age of seven years; contrary to the form of the statute made and passed in the fiftieth year of the reign of King George the Third, intituled, "An Act to repeal three Acts made in the Twenty-Eighth, Thirtieth, and Forty-Sixth Years of his present Majesty, for limiting the Number of Persons to be carried on the Outside of Stage-Coaches or other Carriages, and to enact other Regulations for carrying the Objects of the said Act into Effect." Whereupon the said C. D., after being duly summoned to answer the said charge, &c. [Conclude as pointed out by the form given by the statute, *ante*, 557, Nos. 1 & 3.]

(No. 5.)

Information against the owner for a like offence. (b)

——— } Be it remembered, that on, &c., A. B., of, &c., in the said county, came to wit. } before me, J. P., one of his majesty's justices of the peace for the said county, and informed me, that C. D., late of, &c., in the said county, [coachmaster], on, &c., at, &c., in the said county, the said C. D. then and there being the owner of a certain coach with four wheels, employed as a public stage-coach for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, to and from [London] and [Brighton], in the said county, and which said coach was then and there drawn by four horses, and licensed to carry ten outside passengers, and no more, exclusive of the coachman, on or about the outside of such coach, and the driver of which said coach was and is unknown to the said A. B., did then and there by the said driver unlawfully carry more outside passengers than were or are specified or expressed in the license for using such coach, to wit, [fourteen] outside passengers, exclusive of the coachman, on and about the outside of the said coach, none of the said passengers then and there being a child or children in the lap, nor under seven years of age; contrary to the statute made in the fiftieth year of the reign of King George the Third, intituled, "An Act to repeal three Acts made in the Twenty-Eighth, Thirtieth, and Forty-Sixth Years of his present Majesty, for limiting the Number of Persons to be carried on the outside of Stage-Coaches, or other Carriages, and to enact other Regulations for carrying the Objects of the said Acts into Effect;" which hath imposed a forfeiture of 10*l.* for each outside passenger beyond the number allowed by the said statute, amounting to the sum of [40*l.*] for the said offence.

Received, the day of , by me, .

(No. 6.)

Conviction on sect. 3 of same act, for carrying luggage or passengers outside a coach of an improper height or bearing. (c)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: That C. D., of, &c., on, &c., at, &c., being then and there the driver [owner or proprietor] of a certain coach and carriage, with four wheels, and drawn by four horses,

(a) See the act, *ante*, p. 548. See a form, *Paley on Convictions*. The statute gives the formal parts of the conviction.

(b) See a form, *Paley on Convictions*.
(c) See the act, *ante*, p. 544.

and then and there employed as a public stage-coach and carriage, for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, from [London] to [Oxford], and then and there going and travelling for hire, wilfully did permit and suffer [certain luggage, to wit, &c., to be carried on the roof of the said coach and carriage, or a certain person to ride and go as an outside passenger, on and about the outside of the said coach and carriage, the top of the said coach and carriage being then and there more than eight feet nine inches from the ground; or, the bearing of the said coach and carriage on the ground being then and there less than four feet six inches from the centre of the track of the right or off wheel, to the centre of the track of the left or near wheel]; contrary to the form of the statute in such case made and provided. Whereby, &c.

(No. 7.)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: That C. D., of, &c., on, &c., at, &c., in the county aforesaid, being then and there the driver [or, owner or proprietor] of a certain coach and carriage, with four wheels, drawn by four horses, and then and there employed as a public stage-coach and carriage, for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, from [London] to [Oxford], and then and there going and travelling for hire, unlawfully did carry and permit and suffer divers parcels and luggage to be conveyed upon the roof of the said coach and carriage, the said parcels and luggage then and there exceeding the height of two feet, to wit, of the height of two feet above the roof of the said coach; contrary to the statute in such case made and provided. Whereby, &c.

Conviction on sect. 4 of same act, for carrying luggage above a certain height (a)

(No. 8.)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: That C. D., of, &c., on, &c., at, &c., in the county aforesaid, being then and there the driver [owner or part-owner] of a certain coach and carriage, with four wheels, and then and there employed as a public stage-coach and carriage for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, from [London] to [Ipswich], and then and there going and travelling for hire, did refuse to permit the said coach and carriage, and the luggage on the roof thereof, to be measured by one A. B., a passenger by the said coach and carriage [justice of the peace, magistrate, constable, surveyor of any highway or turnpike road, inspector of coaches duly authorized by the commissioners of stamps, or passenger], although he, the said C. D., was then and there required by the said A. B. so to do; contrary to the statute in such case made and provided. Whereby, &c.

Conviction on same section, for not allowing the luggage, &c., to be measured. (a)

(No. 5.)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: That C. D., of, &c., on, &c., at, &c., in the county aforesaid, did then and there employ and make use of a certain coach and carriage, with four wheels, employed as a public stage-coach, for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, from [London] to [Manchester], and drawn by four horses, for the carrying of certain [outside] passengers for hire, to and from the said [London] aforesaid, to [Manchester] aforesaid, there not being then and there painted upon the outside of either of the doors of the said coach and carriage, or on any other conspicuous part of the said coach and carriage, the number of [outside] passengers which the license obtained for such coach and carriage did then and there specify and express, according to the directions of the statute in such case made and provided; contrary to the statute in such case made and provided. Whereby, &c.

Conviction on 80 Geo. 3, c. 48, s. 7, for stage-coaches not having printed on the outside the number of passengers allowed. (b)

(No. 10.)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: That C. D., of, &c., on, &c., at, &c., being then and there the driver of a certain coach and carriage, with four wheels, employed as a public stage-coach, for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, from [London] to [Liverpool], and drawn by [four] horses, and then and there going and

Conviction on sect. 10 of same statute, against drivers leaving their horses, &c. (c)

(a) See the act, *ante*, p. 548.

(b) See the act, *ante*, p. 549.

(c) See the act, *ante*, p. 551.

FORMS.

travelling for hire [the same not being a hackney-coach, drawn by two horses only], and then stopping at a certain place there, where assistance could be procured, unlawfully and negligently did quit [his horses, or the box of the said coach and carriage], before a proper person was then and there employed to hold the horses [or, fore-horses] of such coach and carriage, whilst such coach and carriage stopped, and before such person had actual hold of the said horses [or, fore-horses]; contrary to the statute in such case made and provided. Whereby, &c.

(No. 11.)

Conviction on sect. 11 of same statute, against drivers endangering passengers, &c., by intoxication, &c. (a)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: *That C. D., of, &c., on, &c., at, &c., in the said county, being then and there the driver [or, acting as guard] of a certain coach and carriage, with four wheels, employed as a public stage-coach, for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, from [London] to [Liverpool], did, by being then and there intoxicated [state the mode in which the safety of the passengers was endangered], and not by any unavoidable accident, endanger the safety of the passengers then and there going and travelling in and by the said coach and carriage, in their lives, their limbs, and their property; contrary to the statute in such case made and provided. Whereby, &c.*

(No. 12.)

Conviction on sect. 12 of same statute, against drivers, &c., insulting or exacting from passengers, &c. (b)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: *That C. D., of, &c., on, &c., at, &c., being then and there the driver [or, guard] of a certain coach and carriage, with four wheels, employed as a public stage-coach, for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, from [London] to [Liverpool], did use certain abusive and insulting language to one A. B., a passenger then and there going and travelling in and by the said coach and carriage [or, did insist on and exact from one A. B., a passenger in and by the said coach, the sum of [2s.], whereas the said C. D. was then and there legally entitled to the sum of [1s.] only]; contrary to the statute in such case made and provided. Whereby, &c.*

(No. 13.)

Conviction on sect. 14 of same statute, against drivers not stopping at toll-gates, to measure luggage, &c. (b)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: *That, on, &c., at, &c., one A. B., being then and there a passenger going and travelling by a certain coach and carriage, with four wheels, employed as a public stage-coach, for the purpose of conveying passengers for hire to and from different places in Great Britain, to wit, from [London] to [Liverpool], drawn by four horses, and going and travelling for hire, and being then regularly booked for the same, and having actually paid for his place, and being then and there conveyed by the said coach and carriage, did require and demand of C. D., then and there the driver of the said coach and carriage, that he should then and there stop the said coach and carriage at a certain toll-gate there, in order that the collector of the toll at the said gate might then and there count the number of passengers upon the said coach and carriage [or, measure and ascertain the height of the luggage upon the said coach and carriage]; and that the said C. D. then and there refused, upon such request and demand as aforesaid, to stop the said coach; contrary to the statute in such case made and provided. Whereby, &c.*

(No. 14.)

Conviction on sect. 15 of same act, against drivers permitting others to drive, &c. (d)

The statute gives the formal parts of the conviction, *ante*, p. 557. State the offence thus: *That C. D., of, &c., on, &c., at, &c., being then and there the coachman [or, person having the care] of a certain coach and carriage, with four wheels, then and there employed as a public stage-coach, for the purpose of conveying passengers for hire, to and from different places in Great Britain, to wit, from [London] to [Liverpool], did permit and suffer one A. B. to drive the said coach without the consent of the proprietor of the same [or, against the consent of the passengers then and there going and travelling in and by the said coach]; contrary to the statute in such case made and provided. Whereby, &c.*

(a) See the act, *ante*, p. 551. See also the 3 Geo. IV. c. 95, s. 1, *ante*, p. 555.
(b) See the act, *ante*, p. 552.

(c) See other forms on this section, *Arch. Forms, Conviction and Commitment*,
(d) See the act, *ante*, p. 553.

Stamps.

[6 & 7 Wil. III. c. 12; 1 Anne, st. 2, c. 22; 8 Anne, c. 9; 10 Anne, c. 19; 5 Geo. III. c. 46; 12 Geo. III. c. 48; 23 Geo. III. c. 58; 26 Geo. III. c. 82; 31 Geo. III. c. 25; 25 Geo. III. c. 55; 36 Geo. III. c. 52; 42 Geo. III. c. 99; 43 Geo. III. c. 126; 44 Geo. III. c. 98; 52 Geo. III. c. 38; 53 Geo. III. c. 108; 55 Geo. III. c. 184; 1 & 2 Geo. IV. c. 55; 3 Geo. IV. c. 117; 5 Geo. IV. c. 41; 9 Geo. IV. c. 27; 9 Geo. IV. c. 49. (a)]

AS to evidence as regards stamps, see Vol. II. p. 61, 62.

Several provisions relative to the penalties of the stamp-acts will be found under the different titles of instruments which are subjected to stamp duties.

It being the intention of the legislature to repeal the present numerous and complicated enactments relative to the revenue of stamps, and to amend and consolidate the same, it would be idle and superfluous to present to the reader an elaborate treatise thereon. We will point out in chronological order only some of the enactments which are more frequently called into action than others.

In the first place, however, it should be noticed, that in one of the acts relating to these duties, viz. 10 Anne, c. 19, there is a clause which brings all the rest within the jurisdiction of the justices of the peace, and almost the whole law relating to this title; and is as follows:—

“That it shall and may be lawful to and for any two or more of the justices of the peace for the time being, residing near to the place where any pecuniary forfeitures, not exceeding 20*l.*, upon this or any of the acts of Parliament, touching any the duties under the management or care of the said commissioners for managing her majesty's duties on stamped vellum, parchment, and paper, shall be incurred, or any offence against any of the same acts shall be committed, in anywise relating to the same duties, or any of them, by which any sum of money only may be forfeited, to hear and determine the same; which said justices of the peace are hereby authorized and required, upon any information exhibited, or complaint made in that behalf, within one year after seizure made, or such offence committed, to summon the party accused, and also the witnesses on either side, and upon the appearance or contempt of the party accused,† shall be convicted of the offence alleged against him, and to award and issue out warrants under their hands and seals, for levying any pecuniary penalties so adjudged, on the goods of the offender, and to cause sale to be made thereof, in case they shall not be redeemed within six days, rendering to the party the overplus, if any; and if any party shall find himself aggrieved, or remain unsatisfied in the judgment of the said justices, then he or they shall or may, by virtue of this act, complain or appeal to the justices of the peace at the next general quarter sessions for that county, riding, or place, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same, and, in case of conviction, to issue warrants for levying the penalties, as aforesaid.” Sect. 172.

“That it shall and may be lawful to and for the said respective justices, where they shall see cause, to mitigate or lessen any such penalties, as they in their discretions shall think fit, the reasonable costs and charges of the officers and informers, as well in making the discovery, as in the prosecution of the same, being always allowed over and above such mitigation, and so as such mitigation do not reduce the penalties to less than double the duties over and

10 Anne, c. 19.
Power of the justices in relation to the stamp duties.

Jurisdiction of the justices in cases where the penalty does not exceed 20*l.*

† Sic in act.

Appeal.

Mitigation.

(a) See in general, as to stamps, *Stark. on Evid.* 3d vol. tit. *Agreement and Stamps*; *Phil. on Evid.*; *Roscoe on Evid.* 95; 1 *Chitty's Col. Stat. tit. Stamps*; and *Chitty's Stamp Laws*. Stamp duties were invented by the Dutch, in the 17th

century, then adopted by the French, and first imposed in England as a mere war-tax, and not a permanent source of revenue. See 5 W. & M. c. 21; 6 & 7 W. & M. c. 12; 1 *Chit. Col. Stat. tit. Stamps*.

26 Geo. 3, c. 82.

Application of
the penalties.

above the said costs and charges; anything contained in this act or any other act of Parliament to the contrary notwithstanding." Sect. 173.

By the 26 Geo. III. c. 82, s. 1, it is enacted, that "whosoever any person shall be convicted before a justice or justices of the peace for any offence to be hereafter committed against any act or acts of Parliament now in being, or hereafter to be made, touching or concerning any the duties under the management or care of the said commissioners for managing the duties on stamped vellum, parchment, and paper, by which any pecuniary penalty or sum of money shall be forfeited, the said justice or justices of the peace before whom such person shall be convicted of the said offence, shall levy the said pecuniary penalty or sum of money in such manner as in such act or acts of Parliament is contained, and apply the same to such uses and purposes, and in such proportions, as are therein contained and expressly directed, in case the same act or acts of Parliament, or any other act or acts of Parliament relating thereto, shall expressly direct the application thereof; and in default of such express and sufficient directions in such act or acts of Parliament for the application of the said pecuniary penalty, or sum of money so forfeited upon such conviction as aforesaid, then to apply the same in such manner as is hereinafter directed."

Sect. 2. That "one moiety or half part of all pecuniary penalties or forfeitures which shall be incurred by any person or persons for any offence hereafter to be committed against any law now in being, or hereafter to be made, touching or concerning any the said duties (except where a different mode of application is or shall be in the said law specially prescribed), shall belong, and be applied to the informer or informers prosecuting for the same within the space of six calendar months after such offence is committed, and the other moiety or half part of the said pecuniary penalties or forfeitures (the necessary charges for the recovery thereof being first deducted) shall be paid to the use of his majesty, his heirs, and successors, in the manner hereinafter directed."

Sect. 3. "That every distribution or division of any pecuniary penalty or forfeiture, directed to be made by this or any other act or acts of Parliament touching any of the said duties, upon conviction before a justice or justices of the peace as aforesaid, shall be, and is hereby restricted and confined to the prosecuting for the same within the time hereinbefore limited; and that, in default of such prosecution within the time aforesaid, no informer or informers before a justice or justices of the peace as aforesaid, shall have or be entitled to any part or share of such penalty or forfeiture, but that the whole thereof shall belong to his majesty, his heirs, and successors, and shall be recoverable by any the ways and means in or by any such act or acts of Parliament in that behalf directed; anything in this, or any of the said acts, contained to the contrary notwithstanding."

Sect. 5. "That, from and after the passing of this act, in all cases where any pecuniary penalty or forfeiture for any offence committed against this, or any act or acts of Parliament now or hereafter to be made, touching any the duties under the management or care of the said commissioners for managing the duties on stamped vellum, parchment, and paper, shall be incurred, it shall and may be lawful for the justice or justices of the peace, before whom any person or persons shall be convicted of the said offence, to cause the conviction upon the same offence to be made out in the form or to the effect following, *mutatis mutandis*, as the case shall happen to be; any thing in any former act contained to the contrary thereof notwithstanding; and every such conviction shall be good and effectual to all intents and purposes whatsoever, without stating the case, or the facts, or evidence, in any more particular manner; that is to say:

Form of conviction.

"Be it remembered, that on the _____ day of _____, in the _____, A. D., of _____, was duly convicted before me, J. P., one of his majesty's justices of the peace for the county of _____ [or, before us, J. P. and E. F., two of his majesty's justices of the peace for the county of _____, as the case shall happen to be], in pursuance of an act passed in the _____ year of the reign of _____, for that the said A. O., on the _____ day of _____ now last past, did [here state the offence]

against the act, as the case shall happen to be], *contrary to the form of the statute in that case made and provided*; and I [or, we, as the case may be] do declare and adjudge that he, the said A. O., hath forfeited, for his said offence, the sum of , of lawful money of Great Britain, which sum of I [or, we, as the case may be] do hereby mitigate to the sum of [here state the mitigated penalty, if necessary], to be distributed as the law directs. This is the first, [second, or other offence, as the case shall happen to be]. Given under my hand and seal [or, our hands and seals, as the case may require], this day of .

26 Geo. 3, c. 92.

Which conviction the said justice shall cause to be wrote fairly upon parchment, and returned to the next general quarter sessions of the peace for the county, riding, shire, stewardry, or place, where such conviction was made, to be filed by the clerk of the peace, and there to remain and be kept among the records of the same county, riding, shire, stewardry, or place; and no such conviction shall be removed by *certiorari*, into any court whatsoever, but shall be subject to appeal before the justices of the quarter sessions, in such manner as in and by any such act or acts of Parliament is specially directed."

Appeal against the conviction.

The 44 Geo. III. c. 98, s. 10, enacts, that it shall not be lawful for any person to commence, prosecute, enter, or file any action, bill, plaint, or information, in any of his majesty's courts, or before any justice of the peace or other magistrate whatsoever, against any person, for the recovery of any fine, penalty, or forfeiture, made or incurred by virtue of this or any other act relating to his majesty's stamp duties, unless the same be commenced, prosecuted, entered, or filed in the name of his majesty's attorney-general, or his majesty's advocate for Scotland, as the case may be, in England or Scotland respectively, or in the name of the solicitor or some other officer of his majesty's stamp duties in England or Scotland respectively.

44 Geo. 3, c. 98. No actions for penalties shall be commenced but in the name of the attorney-general in England, and advocate for Scotland, or some officer of the stamp duties.

Sect. 27. " All fines imposed by this act, except where otherwise expressly directed, shall be sued for, recovered, levied, or mitigated, as any fine by any laws in force on or before the 10th day of October, 1804, for securing stamp duties, or by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, or in the Court of Exchequer in Scotland respectively; and after this act all fines, heretofore imposed by any act relating to the duties on vellum, &c., or this act, shall go to the use of the king: provided, that the commissioners aforesaid may, in every case in which any part of such fine was by any such act given to any informer, give any proportion thereof, as they shall deem expedient, to any person who may inform for or discover any offence, in respect of which any such fine may be discovered, or assist in the recovery thereof."

Recovery and application of penalties.

The 5 Geo. IV. c. 41, s. 3, enacts how suits for the protection of stamp duties may be brought. See the enactment, *post*, p. 580.

5 Geo. 4, c. 41.

By the 9 Geo. IV. c. 49, s. 18, justices may quash informations laid by any other person than an officer of stamps, on payment of costs by defendant. See the enactment, *post*, p. 582.

9 Geo. 4, c. 40.

By the 6 & 7 Wil. III. c. 12, s. 2, any warrant made by, or recognizance taken before, any justice or justices of the peace, are declared to be exempted from stamp duties. See also the 44 Geo. III. c. 98, schedule (A).

6 & 7 Wil. 3, c. 12. Writings exempted from stamps.

By the 44 Geo. III. c. 98, s. 19, nothing in that act shall extend to charge with any duty any proceedings with respect to persons admitted to sue or defend in *forma pauperis*. See also the 5 Wil. III. c. 21, s. 14.

Nor any proceedings of any court-martial, relative to the trial of any common soldier; or any orders, decrees, or proceedings, before any commissioners of sewers, or in the court of stannaries; nor any instruments, matters, or things relating to the purchase or redemption of any land-tax. See also the 42 Geo. III. c. 116, s. 81.

By the 44 Geo. III. c. 98, commissions granted to any officers of volunteer or yeomanry cavalry or volunteer infantry are exempted from stamp duties.

And, by the 52 Geo. III. c. 38, s. 199, no commission granted to any officer of the local militia shall be subject to any stamp duty.

For the management of the stamp duties, the king may appoint commissioners, who shall substitute inferior officers. See 5 & 6 Wil. III. c. 21, s. 7; 9 & 10 Wil. c. 25, s. 48; 44 Geo. III. c. 98, s. 6.

Officers for the stamp duties.

8 Anne, c. 2.

With respect to duties imposed by the several acts before the 8 Anne, c. 9, the officers, before they shall act, shall take an oath for the due execution of their office, before one or more of the commissioners; and by the said act of 8 Anne, c. 9, s. 42, and subsequent acts, they may take the said oath, with respect to the duties imposed by those acts, before one or more of the commissioners, or a justice of the peace.

Penalty for writing before stamped.

By the 5 & 6 Wil. III. c. 21, s. 11, if any person shall write on any paper or parchment any of the matters or things for which such paper or parchment is by the act charged to pay duty, before it be duly stamped, he shall forfeit 500*l.* (reduced to 5*l.* by 6 & 7 Wil. III. c. 12, s. 7, and by the 9 & 10 Wil. III. c. 25, s. 59, 5*l.* more); and an officer offending shall over and above forfeit his office.

And by the 5 & 6 Wil. III. c. 21, s. 11, if any instrument shall be written by any person (not being a known clerk or officer in respect of his office entitled to write the same) on paper or parchment not duly stamped, there shall be paid over and above the duty, the sum of 5*l.* (and by the 9 & 10 Wil. III. c. 25, s. 59, 5*l.* more); and the instrument shall not be given in evidence in any court, until both the duty and the said sum shall be paid, and a receipt produced for the same under the hand of some officer appointed to receive the duties, and until the same shall be stamped.

Memorandums or agreements may be stamped within 21 days.

The 23 Geo. III. c. 58, s. 5, provides, that no memorandum or agreement not stamped shall be deemed void, if stamped at the head office, or the duty paid and a receipt given thereon for the same by the proper officer receiving such duty, within twenty-one days after such agreement shall have been entered into.

Writing to be near the stamp.

By the 1 Anne, st. 2, c. 22, s. 5, all matters and things shall be written either upon, or as near as conveniently may be, to the stamp; on pain of 10*l.*, with full costs.

The same stamp not to serve twice.

Sect. 2, 3. If any person shall write any thing in respect whereof the stamp duties are payable, on any piece of paper or parchment, whereon there shall have been before any writing in respect whereof any duty was payable, before the same hath been again stamped; or shall erase or scrape out any name, sum, date, or other thing, or fraudulently take off any stamp, with intent to use it in any other thing in respect whereof any duty is payable; he shall forfeit in like manner as for writing on paper unstamped, and also 20*l.*, with full costs. See also the 6 Geo. I. c. 21, s. 56.

12 Geo. 3, c. 48.

And by the 12 Geo. III. c. 48, every such person so offending shall be guilty of felony, and transported for a term not exceeding seven years; and if he return before the expiration of his term, he shall be guilty of felony, without benefit of clergy, and may be tried in the county where he was apprehended. And if an offender, being out of prison, shall discover any other offender so as he be convicted, such discoverer shall have a pardon.

5 Geo. 3, c. 46. Stamps spoiled.

By the 5 Geo. III. c. 46, s. 39, stamps spoiled before the writing thereon hath been executed, may, upon oath made thereof before the commissioners, be exchanged at the stamp-office.

And by the 44 Geo. III. c. 98, s. 17, the commissioners of stamps may make such regulations for preventing fraudulent claims, and for regulating the times and places for cancelling or allowing other stamps, as they shall think proper.

All vellum, paper, &c. to be stamped before engrossed or written upon.

By the 23 Geo. III. c. 49, s. 14, "all vellum, parchment, and paper upon which any such bill of exchange, promissory note, or other note, draft, or order, receipt, or other discharge, given for the payment of money, shall be engrossed or written, shall, before the same shall be engrossed or written, be brought to the head office for stamping and marking of vellum, parchment, and paper; and the said commissioners, by themselves or their officers, shall from time to time stamp or mark, as this act directs, any quantities of vellum, parchment, or paper, upon payment of the said duties; and if any such bill of exchange, promissory note, or other note, draft or order, receipt or other discharge, given for the payment of money, so hereby directed to be stamped, shall not be stamped or marked, as by this act is directed, or shall be marked or stamped for a lower duty than as aforesaid, no such bill of exchange, promissory note, or other note, draft or order, receipt or other discharge, shall be pleaded or

given in evidence in any court, or admitted in any court to be good or available in law or equity."

31 Geo. 3, c. 25.

By the 31 Geo. III. c. 25, s. 10, it is enacted, "that all and every person or persons who shall write or sign, or cause to be written or signed, or who shall accept or pay, or cause to be accepted or paid, any bill of exchange, promissory note, or other note, draft or order, liable to any of the duties by this act imposed upon any piece of vellum, parchment, or paper, without the same being first duly stamped or marked with a proper stamp or mark, in the manner herein prescribed, or upon which there shall not be some stamp or mark resembling the same, shall, for every such offence, forfeit and pay the sum of 20*l.*, to be recovered as hereinafter is directed."

Penalty on persons signing, &c. unstamped bills.

Sect. 19 enacts, "that no bill of exchange, promissory note, or other note, draft, or order, liable to be stamped as directed by this act, shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity, unless the same be duly stamped; and that it shall not be lawful for the said commissioners or their officers to stamp or mark any vellum, parchment, or paper with any stamp or mark directed to be used or provided by virtue of this act, at any time after any bill of exchange, promissory note, or other note, draft, or order (or any receipt, discharge, or acquittance, except as herein is otherwise provided), shall be engrossed, written, or printed thereon, under any pretence whatsoever; any thing in this act contained, or any law or statute, to the contrary notwithstanding." See *Evidence*, Vol. II. p. 61, 62.

Bill or note not duly stamped, inadmissible in evidence, &c.

Commissioners prohibited from stamping.

By the 35 Geo. III. c. 55, s. 5, it is enacted, "that the full and just sum of money for which any receipt, discharge, or acquittance shall be given, and the true date thereof, shall be *bonâ fide* respectively inserted therein; and that all notes, memorandums, or writings whatever, given to any person or persons, for or upon the payment of money amounting to 40*s.* or upwards, whereby any sum of money shall be acknowledged to have been paid, settled, received, accounted for, balanced, discharged, released, or in any manner satisfied, or which shall in any manner signify or denote such acknowledgment, as aforesaid, and whether the same shall or shall not be signed by or with the name or names of the person or persons by or on whose behalf the same shall be given, shall be respectively taken and construed to be receipts within the true intent and meaning of this act; and shall be liable to the respective duties imposed thereon, as well by the said recited act as this act, and shall be paid and payable by the person or persons by whom or on whose behalf such receipts, discharges, or acquittances shall be required (except such receipts, discharges, or acquittances as shall be at any time or times given upon the payment of money in respect of any salary or pension, debt, or other sum, payable from his majesty, his heirs and successors; in all which cases the duties shall be paid by the person or persons giving such receipts, discharges, or acquittances); and which rates and duties, in default of payment thereof, according to the regulations of this act, shall and may be charged upon and levied against the person or persons by whom the same are hereby made payable, his, her, or their respective executors, administrators, or assigns."

The full sum to be expressed in receipt &c. and any note, &c. given upon the payment of any money, to be liable to duty.

Sect. 6. "That every receipt, discharge, or acquittance, note, memorandum, or writing whatever, given to any person or persons for or upon the payment of money, which shall contain or express, or in any manner signify or denote, any general acknowledgment of any debt, claim, account, or demand, or all or any debts, claims, accounts, or demands being paid, settled, received, accounted for, balanced, discharged, released, or satisfied, or whereby any sum of money therein mentioned shall be acknowledged to be in full, or in discharge or satisfaction, of all or any such debts, claims, accounts, or demands, or intended so to be, and whether the same shall or shall not be signed by or with the name or names of the person or persons by or on whose behalf the same shall be given, shall be deemed and taken to be a receipt for the sum of 500*l.* and upwards, within the true intent and meaning of this act, and shall be liable to the stamp duty of 2*s.*, by the said recited act and this act imposed thereon; and no such receipt, discharge, or acquittance, note, memorandum, or writing, shall be pleaded or given in evidence in any court, or admitted in any court,

Receipts, &c. in full, liable to a duty of 2*s.*

No unstamped receipt, &c. available in law.

35 Geo. 3, c. 55.

to be useful or available in law or equity as an acknowledgment of any debts, claims, accounts, or demands being paid, settled, received, accounted for, balanced, discharged, released, or satisfied, whether generally or otherwise, or for any other or greater sum of money than the sum of money therein expressed, unless the same shall be stamped with the proper stamp to denote the said duty of 2s. hereby imposed; any thing in such receipt, discharge, acquittance, note, memorandum, or writing, expressed notwithstanding."

Memorandums,
&c. for money
received, though
not signed, to be
deemed receipts.

Sect. 7. "That every note, memorandum, or writing whatever, given to any person or persons for or upon the payment of money, which shall contain or express, or in any manner signify or denote, any acknowledgment of any part of any debt, claim, account, or demand being paid, settled, received, accounted for, balanced, discharged, released, or satisfied, whether the same shall or shall not be signed by or with the name or names of the person or persons by or on whose behalf the same shall be given, shall be deemed and taken to be a receipt within the true intent and meaning of the said recited act and this act, and shall be liable to a stamp duty in respect of the sum actually paid."

Penalty on per-
sons signing re-
ceipts unstamped,
&c.

Sect. 8. "That all and every person or persons who shall write or sign, or cause to be written or signed, any receipt, discharge, or acquittance, given for or upon the payment of money liable to any stamp duty charged by the said recited act or this act, upon any piece of vellum, parchment, or paper, without the same being first duly stamped, or marked with a stamp or mark, as herein is directed, or upon which there shall be a stamp or mark of lower denomination or value than is by the said recited act and this act charged in respect thereof, shall forfeit and pay the sum of 10*l.*, in case the sum paid, contained or expressed in such receipt, discharge, or acquittance shall not amount to the sum of 100*l.*, and the sum of 20*l.*, in case such sum shall amount to 100*l.* or upwards."

Persons giving
receipts for less
than actually
paid, liable to
penalty.

Sect. 9. "That all and every person or persons who shall give any receipt, discharge, or acquittance, or any note, memorandum, or writing, acknowledging the payment of money, in which a less sum shall be expressed than the sum actually paid or received, or who shall separate or divide the sum demanded, or actually paid or received, into divers sums, with intent to evade the said duties, or any of them; or shall, with the like intent, write off any part of any debt, claim, or demand, or who shall be guilty of or concerned in any fraudulent contrivance or device whatsoever, with intent or design to defraud his majesty, his heirs or successors, of any of the said duties by the said act or this act imposed, shall, for every such offence forfeit and pay the sum of 50*l.*, to be recovered in manner as hereinafter is directed."

Vellum, &c. to be
stamped before
written upon.

Sect. 10. "That all vellum, parchment, and paper, liable to any stamp duty by the said recited act or this act, shall, before any of the matters or things thereby or hereby charged shall be engrossed, printed, or written thereupon, be brought to the head office for stamping or marking vellum, parchment, or paper; and the said commissioners, by themselves, or by their officers employed under them, shall and may from time to time stamp and mark, according to the directions of the said recited act and this act, any quantities or parcels of vellum, parchment, or paper, before any of the matters or things thereby or hereby charged shall be engrossed, printed, or written thereupon, upon payment of the several duties payable for the same by virtue of the said recited act and this act; and no receipt, discharge, acquittance, note, or memorandum, or writing aforesaid, liable to the duties by the said recited act or this act imposed, or any of them, shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity, unless the vellum, parchment, or paper on which such receipt, discharge, acquittance, note, memorandum, or writing, as aforesaid, shall be engrossed, printed, written, or made, shall be stamped or marked with a lawful stamp or mark, to denote the rate or duty as by the said recited act or this act is directed, or some higher rate or duty in the said recited act or this act contained; and it shall not be lawful for the said commissioners or their officers to stamp or mark any vellum, parchment, or paper, with any stamp or mark directed to be used or provided by virtue of the said recited act or this act, at any time after any receipt, discharge, or acquittance shall be engrossed, written, or printed thereon, under

Prohibits com-
missioners from
stamping any re-
ceipt after the
same has been
made.

any pretence whatever, except as herein is otherwise provided; any thing in the said recited act or this act contained, or any law or statute to the contrary thereof notwithstanding." 35 Geo. 3, c. 69.

Sect. 11. "Provided always, that if any receipt, discharge, or acquittance, given upon the payment of money, and written on vellum, parchment, or paper, not stamped, as by the said recited act and this act is directed, shall be brought to the said commissioners, or their officers employed by them for that purpose, to be stamped according to the directions of the said recited act and of this act, within the space of *fourteen days* after such receipt, discharge, or acquittance shall be given or shall bear date, the same shall and may be permitted to be stamped on payment of the sum of 5*l.*, over and above the duty payable for the same by virtue of the said recited act and this act; and if any such receipt, discharge, or acquittance shall be brought to be stamped, as aforesaid, after the expiration of such fourteen days, and within *one calendar month* after such receipt, discharge, or acquittance shall be given, or shall bear date, the same shall and may be permitted to be stamped on payment of the sum of 10*l.*, over and above the duty payable for the same by virtue of the said recited act and this act; and the proper officer or officers are hereby enjoined and required, upon such receipt, discharge, or acquittance being brought to them, within the respective times hereinbefore limited, and upon payment of the duty imposed thereon by the said recited act or this act, and the respective sums aforesaid, but not otherwise, to mark or stamp such receipt, discharge, or acquittance with the proper mark or stamp by the said recited act and this act required for the same."

Receipts, &c. not stamped, may be stamped within the time herein prescribed, upon payment of the sums herein mentioned.

By the 37 Geo. III. c. 19, s. 3, it is enacted, "that if any attorney, solicitor, clerk, officer, or other person, shall engross, print, or write, or cause to be engrossed, printed, or written, any indenture, lease, bond, or other deed, on vellum, parchment, or paper, not duly stamped according to the directions of this act, and shall neglect to bring the same to be duly stamped in the manner and within the time hereby directed and allowed for stamping the same, every such attorney, solicitor, clerk, officer, or other person, shall forfeit and pay the sum of 20*l.*; and no such indenture, lease, bond, or other deed, shall be pleaded or given in evidence, or be good, useful, or available in any manner whatever, unless the same shall be stamped as required by this act."

37 Geo. 3, c. 19. Persons not bringing indentures not duly stamped, to be so stamped, to forfeit 20*l.*. No indenture available unless duly stamped.

By the 37 Geo. III. c. 90, s. 9, it is enacted, "that all the provisions, rules, and matters, prescribed by an act passed in this session of Parliament, for the more effectually securing the stamp duties on indentures, leases, bonds, and other deeds, and not hereby altered, shall be extended, applied, and put in practice for the stamping such indentures, leases, bonds, deeds, agreements, and copies of indentures, leases, bonds, and other deeds, according to the true intent and meaning of this act, as fully and effectually as if the same had been re-enacted in this act; and if any attorney, solicitor, clerk, officer, or other person, shall engross, print, or write, or cause to be engrossed, printed, or written, any agreement, or any copy purporting to be a true copy, or attested to be a true copy of any indenture, lease, or deed, not duly stamped according to the directions of this act, and shall neglect to bring the same to be duly stamped within the time directed and allowed for stamping indentures, leases, bonds, and other deeds, by the said act passed in this session of Parliament, every such attorney, solicitor, clerk, officer, or other person, shall forfeit and pay the sum of 20*l.*, to be recovered and applied as any penalty imposed by the said act may be recovered and applied; and no such agreement or copy shall be pleaded or given in evidence, or be good, useful, or available, in any manner whatever, unless the same shall be stamped as required by this act."

37 Geo. 3, c. 90. Provisions extended to this act.

Neglecting to bring instruments not duly stamped, to be so within the time allowed.

Penalty, 20*l.* and the instrument of no avail.

Sect. 10. "That every person who shall administer the personal estate of any person dying after the passing of this act, or any part thereof, without proving the will of the deceased, or taking out letters of administration of such personal estate, within six calendar months after the death of the person so dying, shall forfeit and pay the sum of 50*l.*, to be recovered in his majesty's Court of Exchequer at Westminster, for offences committed in England, or in his majesty's Court of Exchequer in Scotland, for offences committed in Scotland, by action of debt, bill, plaint, or information, wherein no essoin, privilege, wager of

Persons administering personal estates without proving the will, or taking out letters of administration within six months after the death of the party, to forfeit 50*l.*

37 Geo. 3, c. 136.

law, or more than one imparlance, shall be allowed; and that one moiety of such penalty or forfeiture shall, if sued for within the space of six calendar months, be to his majesty, his heirs, or successors, and the other moiety thereof to the person or persons who shall inform or sue for the same."

37 Geo. 3, c. 136.

By the 37 Geo. III. c. 136, reciting, "whereas deeds and other instruments cannot be given in evidence, nor are in any manner available, unless stamped with proper stamps provided for such purpose; and whereas, from the variety of stamps provided for different purposes, mistakes have arisen, and may again arise, in the use of such stamps, for want of knowing the proper denomination or value required in particular cases; and whereas, in many instances, such instruments cannot be stamped after execution, without paying accumulated penalties, under acts passed from time to time for imposing stamp duties;" it is enacted, "that if any vellum, parchment, or paper, whereupon any instrument, matter, or thing (except bills of exchange, promissory notes, or other notes, drafts, or orders), shall have been or shall be engrossed, printed, or written, liable in respect thereof to be stamped with a stamp or stamps of a particular denomination or value, and whereon there is or shall be impressed any stamp or stamps of a different denomination, but of an equal or greater value with the stamp or stamps required at the time of making, signing, or executing the said instrument, matter, or thing, shall be produced to the commissioners of stamp duties at their head office of stamps, or to such officer as the said commissioners, or the major part of them, shall appoint for such purpose, it shall be lawful for the said commissioners, or their officer, as aforesaid, in every such case, and upon payment of the duty by law payable for such vellum, parchment, or paper, in respect of the instrument, matter, or thing engrossed, printed, or written thereon, at the time such vellum, parchment, or paper shall be produced, as aforesaid, and one penalty of 5*l.*, to stamp, or cause to be stamped, such vellum, parchment, or paper (except as aforesaid), with the proper stamp or stamps provided and in use for the same, at the time such vellum, parchment, or paper shall be produced to be stamped, as aforesaid, without making any allowance for the stamp or stamps before marked thereon; and every instrument, matter, or thing so stamped shall have and be deemed of the like force and validity in the law as if the same had been duly stamped before such instrument, matter, or thing had been engrossed, printed, or written thereon; any former law to the contrary notwithstanding."

Instruments (bills and notes excepted), unstamped, or on stamps of less than the legal value, may be duly stamped, on payment of the duty, and 10*l.* penalty for each skin, &c.

Sec. 2. "That, where any skin or piece of vellum or parchment, or sheet or piece of paper, on which any matter or thing (except bills of exchange, promissory notes, or other notes, drafts, or orders) shall have been engrossed, printed, or written, shall be brought to the said commissioners to be stamped after the same shall have been executed, the same not having been stamped with any stamp, or having been stamped with a stamp of less value than is by law required, and the person or persons producing the same is desirous of having the same duly stamped, but the same cannot, according to the laws in force, be stamped without payment of accumulated penalties, exceeding 10*l.*, besides the duty, that then and in every such case it shall and may be lawful for the said commissioners, or the major part of them, to direct the proper officer or officers, and such officer or officers is and are hereby required, to stamp the same, on payment of the duty by law payable for such vellum, parchment, or paper, in respect of the instrument, matter, or thing engrossed, printed, or written thereon; and one penalty of 10*l.* only for every such skin or piece of vellum or parchment, or sheet or piece of paper, although the duty payable for the same shall have been imposed by more than one act of Parliament, and notwithstanding the penalties thereupon may have accumulated to a larger sum than the said sum of 10*l.*; and every instrument, matter, or thing engrossed, printed, or written on any vellum, parchment, or paper so stamped, as aforesaid, shall have and be deemed of the like force and validity in the law as if the vellum, parchment, or paper so stamped, had been duly stamped before such instrument, matter, or thing had been engrossed, printed, or written thereon; any former law to the contrary notwithstanding."

If instruments not duly stamped, without in-

Sec. 3. "Provided always, that in any case where it shall appear to the commissioners of stamp duties, upon oath or affirmation to be made before any one

or more of the said commissioners of stamp duties (which oath or affirmation he is hereby authorized to administer), or otherwise to their satisfaction, that any instrument whatever required by law to be engrossed, printed, or written on stamped vellum, parchment, or paper, hath not been engrossed, printed, or written on vellum, parchment, or paper duly stamped, as aforesaid, either by accident or inadvertency, or from urgent necessity or unavoidable circumstance, and without any intention in any party or parties thereto to defraud his majesty of the duties payable thereon, and such instrument shall be brought to the said commissioners to be stamped, as aforesaid, within sixty days after the making or execution thereof, it shall be lawful for such commissioners of stamp duties to remit the penalty payable on stamping such instrument, or any part thereof, as they shall deem expedient; and every person concerned in engrossing, printing, or writing any such instrument, or in making or executing the same, shall be and is hereby freed, discharged, and indemnified from all further penalties and forfeitures, than such penalties or forfeitures, or such parts thereof, as shall not be so remitted by order of the said commissioners of stamp duties."

Sec. 4. "And whereas the commissioners of his majesty's stamp duties have not been able to supply the different parts of the kingdom with sufficient quantities of vellum, parchment, and paper, stamped with the additional duties granted by an act of the present session of Parliament, before the period appointed for the commencement of the said duties, and several persons have necessarily used instruments without such stamps; be it enacted, that it shall be lawful for any person or persons who shall have used, or shall at any time before the 29th day of September, 1797, use any vellum, parchment, or paper, on which such additional duty is imposed, and which shall be duly stamped in the manner required by the laws in force on and immediately before the passing of the said act, to bring or send the same to the said head office at any time before the 1st day of November, in order that the same may be stamped, as aforesaid, on payment of the additional duty granted by the said act; and it shall be lawful for the said commissioners of stamp duties, or their officers appointed for such purpose, to stamp the same, on payment of the said additional duty only, without any penalty; and all and every person and persons concerned in engrossing, printing, or writing any matter or thing on such vellum, parchment, or paper, as aforesaid, or in using the same in manner aforesaid, shall be, and is, and are hereby indemnified, freed, and discharged from and against all penalties and forfeitures incurred or to be incurred thereby, before the stamping the same in manner aforesaid."

Sec. 5. And whereas, by an act passed, &c. (31 Geo. III. c. 25), "certain stamp duties were imposed on bills of exchange, promissory notes, and others, respectively, and it was thereby enacted that all vellum, parchment, and paper, before any bill of exchange, promissory note, or other note, liable to any stamp duty by the said act imposed, should be engrossed, printed, or written thereon, should be brought to the head office for stamping such vellum, parchment, and paper; and that it should not be lawful for the commissioners for managing the duties on stamped vellum, parchment, and paper, or their officers, to stamp any vellum, parchment, or paper, at any time after any bill of exchange, promissory note, or other note, draft, or order, should be written thereon, under any pretence whatsoever;" be it enacted, "that it shall and may be lawful for any person or persons who shall be the holder or holders of any bill of exchange, promissory note, or other note, draft, or order, made after the passing of this act, and liable to any stamp duty by virtue of the said recited act, which shall be stamped with a stamp of a different denomination than is required by the said act, if the same shall be of equal or superior value to the stamp required, to produce the same, or cause the same to be produced, within the respective times hereinafter mentioned, to the commissioners appointed to manage the said duties, at the head office of stamps in Middlesex, or to such officer or officers as the said commissioners, or the major part of them, shall, by writing under their hands, appoint for such purpose; and it shall and may be lawful for such commissioners to direct the proper officer or officers, and such officer or officers is and are hereby required, upon payment of the duty payable on such vellum, parchment, or paper, by the said recited act, and such penalty as is hereinafter

27 Geo. 3, c. 136.
In case of fraud, be brought to be so stamped within 60 days after execution, commissioners may remit the penalty.

The additional duties imposed by 37 Geo. 3, c. 96, may be stamped on parchment, &c. used before Sept. 29, 1797; which shall be brought to the head office before Nov. 1, on payment of duty.

31 Geo. 3, c. 25, prohibiting commissioners from stamping bills and notes after they are complete, recited.

Bills of exchange, &c. made after passing of this act, liable to stamp duty under recited act, if on stamps of an equal or superior value, though on different denominations than the legal stamp, may be properly stamped, on payment of the duty, and a penalty.

31 Geo. 3, c. 25.

mentioned, over and above the said duty, to mark or stamp such bill of exchange, promissory note, or other note, draft, or order, with the proper mark or stamp, and to give a receipt for the duty and penalty so paid on the back of such bill of exchange, promissory note, or other note, draft, or order, so stamped; and every such bill of exchange, promissory note, or other note, draft, or order, so stamped, shall have and be deemed of the like force and validity in the law, as if the same had been duly stamped according to the directions of the said recited act; and all and every person or persons procuring such bill of exchange, promissory note, or other note, draft, or order, to be stamped, as directed by this act, shall be, and is, and are hereby indemnified, freed, and discharged, from and against all penalties and forfeitures incurred by reason of such bill of exchange, promissory note, or other note, draft, or order, not having been duly stamped according to the directions of the said act."

Penalty to be paid on stamping said bills, 40s., if before bill is payable; 10*l.* afterwards.

Sec. 6. "That if any such bill of exchange, promissory note, or other note, draft, or order, shall be produced to the said commissioners before the same shall be payable, according to the tenor and effect thereof, the same shall be stamped on payment of the said duty, and the penalty of 40*s.*; but, in case such bill of exchange, promissory note, or other note, draft, or order, shall be payable, according to the tenor and effect thereof, before the production thereof to the said commissioners for the purpose before mentioned, then the same shall not be stamped, unless on payment of the duty, and the sum of 10*l.* for the said penalty."

43 Geo. 3, c. 126.

Persons requiring the receipt, may provide the stamp and demand payment of the duty from the party giving the receipt, who shall pay it, on penalty of 10*l.*

The 43 Geo. III. c. 126, repeals the prior enactments as far as respects the amount of the duties, and imposes new duties, and declares what shall be deemed a receipt in full, and that, if the stamp be improper, the person giving the receipt shall remain liable to pay the proper duty. It is enacted by sect. 5, "that it shall be lawful for any person or persons, or any agent or agents of any person or persons, from whom any sum or sums of money shall be due or payable, or claimed to be due or payable, and who shall have paid such sum or sums of money to provide a piece of paper, vellum, or parchment, duly stamped with the proper duty, and according to the amount of the sum or sums so paid, as aforesaid, or some higher rate of duty in this act contained, and to demand and require of the person or persons entitled to such sum or sums of money, or any agent or agents to whom the same shall have been paid, a receipt, discharge, and acquittance for such sum or sums of money, and also the amount of the duty thereon, as aforesaid; and if any person to whom any sum or sums of money shall have been paid, as aforesaid, shall refuse to give such receipt, discharge, and acquittance, upon demand thereof, or pay the amount thereof, as aforesaid, every such person shall forfeit and pay for every such offence the sum of 10*l.*, to be recovered as any penalty may be recovered under the said recited acts."

No receipt shall be given in evidence, unless stamped with a lawful stamp, or one of a higher rate of duty.

Sec. 6. "That no receipt, discharge, or acquittance, aforesaid, liable to the duties by this act granted, or any of them, shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity, unless the vellum, parchment, or paper on which such receipt, discharge, or acquittance shall be engrossed, printed, written, or made, shall be stamped or marked with a lawful stamp or mark, to denote the rate of duty, as by this act is directed, or some higher rate of duty in this act contained."

43 Geo. 3, c. 127.
Repeals 37 Geo. 3, c. 126, s. 3.

By the 43 Geo. III. c. 127, s. 5, after reciting "and whereas by an act passed in the thirty-seventh year of the reign of his present majesty, intituled, 'An Act to enable the Commissioners of Stamp Duties to stamp Deeds and other Instruments, Bills of Exchange, Promissory and other Notes in the cases therein mentioned, it is amongst other things enacted, that it shall be lawful for the said commissioners or their officer, upon payment of the duty and a penalty of 5*l.* in the said act mentioned, to stamp any vellum, parchment, or paper, whereupon any instrument, matter, or thing (except bills of exchange, promissory notes, or other notes, drafts, or orders) shall have been, or shall be engrossed, printed, or written, liable in respect thereof, to be stamped with a stamp or stamps of a particular denomination or value, and whereon there is or shall be impressed any stamp or stamps of a different denomination, but of an

equal or greater value, in certain cases therein mentioned: and whereas it is expedient to permit the same to be done without payment of the said penalty," it is enacted, "that it shall be lawful for the said commissioners or their officer as aforesaid, from and after the passing of this act, to stamp or cause to be stamped, any such vellum, parchment, or paper (except as aforesaid), in any of the cases hereinbefore mentioned, without payment of the said penalty of 5*l.* required by the said recited act; and every instrument, matter, or thing so stamped shall have and be deemed of the like force and validity as if the said penalty of 5*l.* had been paid, pursuant to the direction of the said act."

43 Geo. 3, c. 127.

Instruments, &c. having an improper stamp of an equal or greater value, may be re-stamped without penalty.

Sect. 6. That every instrument, matter, or thing, although stamped, or impressed with any stamp of greater value than the stamp required by law, shall be valid and effectual, provided such stamp shall be of the denomination required by law for such instrument, matter, or thing, any statute, law, or usage to the contrary notwithstanding.

Instruments with a stamp of greater value than requisite, shall be valid.

By the 44 Geo. III. c. 98, s. 24, it is enacted, "that in any case where it shall appear to the commissioners of his majesty's stamp duties, upon oath or affirmation, to be made before any one or more of the said commissioners (which oath or affirmation he or they is or are hereby authorized to administer), or otherwise to their satisfaction, that any instrument, matter, or thing whatsoever, (except bills of exchange, promissory notes, or other notes, drafts, orders, or receipts) required by law to be engrossed, printed, or written on stamped vellum, parchment, or paper, hath been engrossed, printed, or written on vellum, parchment, or paper not duly stamped with a stamp of the value by this act required, either by accident or inadvertency, or from urgent necessity, or unavoidable circumstances, and without any wilful delay or intention in any party or parties thereto to evade the duties by this act imposed, or to defraud his majesty thereof, and such instrument, matter, or thing shall be brought to the said commissioners to be stamped within twelve months after the making or execution thereof, it shall be lawful for such commissioners of his majesty's stamp duties to remit the penalty payable on stamping such instrument, matter, or thing, or any part thereof, as they shall deem expedient, and every person concerned in engrossing, printing, or writing any such instrument, matter, or thing, or in making or executing the same, shall be and he or she is hereby freed, discharged, and indemnified from all further penalties or forfeitures than such penalties or forfeitures, or such parts thereof, as shall not be remitted by order of the said commissioners of his majesty's stamp duties: provided always, that nothing herein contained shall extend, or be construed to extend, to prevent the said commissioners from stamping any receipts allowed to be stamped, after the same shall have been written and signed under such and the like circumstances, restrictions, and regulations as such receipts may now be stamped: provided also, that it shall be lawful for the said commissioners, and they are hereby authorized, to make all such payments and allowances as are by any act or acts now in force, in relation to the duties on vellum, parchment, or paper, or any of those heretofore directed to be made, paid, and allowed by the said commissioners, and are not by this act or the schedule hereto annexed, varied, altered, or expressly repealed; any thing in this act contained to the contrary notwithstanding."

44 Geo. 3, c. 98.

Where instruments (except bills of exchange, &c.) have, without fraudulent intention, been written on improper stamps, the commissioners may remit the penalty, if brought to be duly stamped within 12 months after execution.

Receipts may be stamped as now allowed.

And all former allowances (not repealed) may be made.

By the 46 Geo. III. c. 43, it is enacted, "that there shall be paid throughout Great Britain, unto and for the use of his majesty, his heirs, and successors, for and upon every skin or piece of vellum or parchment, or sheet or piece of paper upon which any valuation or appraisement, or the amount of any valuation or appraisement of any estate, property, or effects, real or personal, or of any interest in possession or reversion, remainder or contingency, in any estate or property real or personal, shall be written or set down in figures, where the amount of such valuation or appraisement shall not exceed 50*l.*, a stamp duty of 2*s.* 6*d.*; and where the same shall exceed 50*l.* and not exceed 100*l.*, a stamp duty of 5*s.*; and where the same shall exceed 100*l.* and not exceed 200*l.*, a stamp duty of 10*s.*; and where the same shall exceed 200*l.* and not exceed 500*l.*, a stamp duty of 15*s.*; and where the same shall exceed 500*l.*, a stamp duty of 20*s.*; and upon every piece of vellum or parchment, or sheet or piece of paper, whereon any license of any appraiser shall be written or printed, a stamp duty of 6*s.*"

46 Geo. 3, c. 43.

Stamp duties on appraisements.

Duty on licenses to appraisers, 6*s.*

46 Geo. 3. c. 43.

Sect. 2. The said duties shall be under the management of the commissioners of stamps.

Sect. 3. The powers of former acts relating to stamp duties are extended to this act.

Persons appraising property for hire to be deemed appraisers.

Sect. 4. "That every person who shall value or appraise any estate or property, real or personal, or any interest in possession or reversion, remainder or contingency in any estate or property, real or personal, or any goods, merchandize, or effects, of whatsoever kind or description the same may be, for or in expectation of any hire, gain, fee, or reward, or valuable consideration to be therefore paid him, shall be deemed and taken to be an appraiser within the provisions of this act, to all intents and purposes."

Appraisers shall take out annual licenses from 5th July, to be granted by commissioners of stamps, &c.

Sect. 5. "That no person shall exercise the calling or occupation of an appraiser, or act as such within the intent and meaning of this act, without taking out a license in manner hereinafter mentioned; and every such license shall state the true name and place of abode of the person taking out the same, and it shall be lawful for any two or more of his majesty's commissioners appointed for managing the duties arising by stamps on vellum, parchment, and paper, or for any person duly authorized by such commissioners, or the major part of them, to grant such licenses, and every such license issued between the 5th day of July and the 5th day of August in any year shall bear date on the 6th day of July; and every such license, issued at any other time, shall bear date the day on which the same shall be issued; and every such license shall continue in force from the day of the date thereof until the 5th day of July then next following."

Penalty on unlicensed persons appraising, 50*l*.

Sect. 6. "That no person shall appraise or value any estate or property or effects, real or personal, or any interest in possession or reversion, remainder or expectancy, in any estate or property, real or personal, for or in expectation of hire or reward, without being so licensed as aforesaid, on pain of forfeiting for every such offence the sum of 50*l*."

Auctioneers duly licensed may act as appraisers, without license.

Sect. 7. "That all persons who shall be duly licensed according to law to act as auctioneers, shall and may act as appraisers, without taking out any other license in pursuance of this act, any thing in this act contained to the contrary notwithstanding."

Appraisers shall write appraisement on paper duly stamped. Penalty, 50*l*.

Sect. 8. "That every appraiser shall write or set down in words or figures, every valuation or appraisement made by him or any person for him, and the full amount thereof, and within fourteen days after the making thereof deliver the same to his employer, so written or set down upon vellum, parchment, or paper, duly stamped according to the provisions of this act, on pain of forfeiting for any neglect therein, or for delivering any valuation or appraisement, or the amount of any valuation or appraisement, on any vellum, parchment, or paper, not duly stamped as aforesaid, the sum of 50*l*."

Persons shall not receive appraisements unless duly stamped, Penalty, 20*l*.

Sect. 9. "That no person who shall employ any appraiser to make any appraisement or valuation as aforesaid, shall receive, or take or pay, or make any compensation for the making of any such appraisement or valuation as aforesaid, unless the same shall be written or set down in words or figures upon vellum, parchment, or paper duly stamped according to the provisions of this act, on pain of forfeiting for every such offence the sum of 20*l*."

Appraisements extending to more than one piece of one stamp.

Sect. 10. "That nothing in this act contained shall extend or be construed to require any stamp upon any piece of vellum, parchment, or paper whereon shall be written or set down any valuation or appraisement extending to more than one piece of vellum, parchment, or paper, other than and except the piece upon which the aggregate amount of the value of the articles contained in such valuation or appraisement shall be written or set down."

Exemption for appraisements under order of admiralty.

Sect. 11. "That nothing herein contained shall extend to charge with any stamp duty any vellum, parchment, or paper upon which any valuation or appraisement made in pursuance of any order of any court of admiralty, vice-admiralty, or any court of appeal from any sentence, adjudication, or judgment of such court, shall be written or set down."

Sect. 12. The duties are to be carried to the consolidated fund.

Sect. 13. Separate accounts of duties shall be kept and annually laid before Parliament, and the amount applied to the charge of any loan of this session.

48 Geo. 3, c. 140.

By the 48 Geo. III. c. 149, s. 22, it is enacted, "that in all cases of the sale of

any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest, or claim, into, out of, or upon any lands, tenements, rents, annuities, or other property where a duty is imposed on the conveyance thereof, in the schedule hereunto annexed, in proportion to the amount of the purchase or consideration money therein or thereupon expressed, the full purchase or consideration money, which shall be directly or indirectly paid or secured, or agreed to be paid or the same, shall be truly expressed and set forth in words at length, in or upon the principal or only deed or instrument, whereby the land or other thing sold shall be granted, assigned, transferred, released, renounced, or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons by his, her, or their direction; and also where upon the sale of any annuity, easement, servitude, or other right not before in existence, the same shall not be created by actual grant or conveyance, but shall only be secured by bond, warrant of attorney, covenant, contract, or other security, the full purchase or consideration money which shall be directly or indirectly paid or secured, or agreed to be paid for the same, shall be truly expressed and set forth in words at length, in or upon the bond or other instrument or instruments by which the same shall be secured; and if, in any of the said cases, the full purchase or consideration money shall not be truly expressed and set forth in the manner hereby directed, the purchaser or purchasers and also the seller or sellers shall forfeit the sum of 50*l.*, and shall also be charged and chargeable with, and be holden liable to the payment of five times the amount of the excess of duty which would have been payable for such deed, bond, or other instrument as aforesaid in respect of the full purchase or consideration money, in case the same had been truly expressed and set forth in or upon the same, pursuant to the directions of this act, and the schedule hereunto annexed, beyond the amount of the duty actually paid for the same; which quintuple duty shall be deemed and taken to be a debt to his majesty, his heirs, and successors, of the party or parties respectively hereby made liable to pay the same, and shall and may be sued for and recovered accordingly."

Sect. 23. "That if any or either of the parties hereby made liable to the payment of such penalty and quintuple duty, as aforesaid, shall give information to the commissioners of stamps, whereby such penalty or quintuple duty or any part thereof shall be recovered from any other party or parties liable thereto, the party or parties giving the information shall not only be indemnified and discharged of such his, her, or their liability, but shall also be rewarded by the commissioners of stamps out of the penalty or quintuple duty so recovered, to such extent as the said commissioners or the major part of them shall think proper, but not exceeding one-half of what shall be so recovered; and where any other person shall give information whereby any such penalty or quintuple duty shall be recovered, he or she shall be rewarded in the like manner."

Sect. 24. "That where the full purchase or consideration money shall not be truly expressed and set forth, in the manner hereby directed, it shall be lawful for the purchaser or purchasers, or any of them, or his, her, or their executors or administrators, to recover back from the seller or sellers, or his, her, or their executors or administrators, so much and such part of the purchase or consideration money as shall not be expressed and set forth as aforesaid, or the whole thereof, if no part of the same shall be so expressed and set forth, either in an action for money had and received for the use of the party or parties suing for the same, or by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, wherein no essoin, protection, wager of law, or more than one imparlance shall be allowed, or by ordinary action or summary complaint in the court of session, or in the sheriff or steward court of the shire or stewarty where the person or persons sued or complained of shall reside in Scotland, as the case may require, together with double costs of suit."

Sect. 25. "That if any attorney, solicitor, writer to the signet, or other person who shall be employed in or about the preparing of any such deed, bond, or other instrument in or upon which the full purchase or consideration money is hereby required to be truly expressed and set forth as aforesaid, or who shall be employed for any of the parties thereto, in anywise, about or relating to the

48 Geo. 3, c. 149.

On sale of any property, real or personal, the purchase money or consideration shall be fully and truly set forth in the conveyance, &c.

Sic in act.

Penalty on purchasers and sellers for default in setting forth consideration, quintuple duty.

Parties liable to such penalties informing against others, shall be indemnified and rewarded.

Where the consideration shall not be truly set forth, purchaser may recover back so much thereof as shall not be stated.

Penalties on attorneys, &c., for not inserting the true consideration in any conveyance, &c., 500*l.* and incapacity.

transaction therein mentioned, shall knowingly and wilfully insert or set forth, or cause to be inserted or set forth, in or upon any such deed, bond, or other instrument, any other than the full and true purchase or consideration money directly or indirectly paid or secured, or agreed to be paid for the same, or shall in anywise aid or assist in the doing thereof respectively, every such attorney, solicitor, writer to the signet, or other person so offending, shall for every such offence forfeit the sum of 500*l.*; and every attorney, solicitor, and writer to the signet so offending, and being thereof lawfully convicted, shall also be from thenceforth disabled to practise as an attorney, solicitor, or writer to the signet, and any other person being entitled or entrusted to prepare any such deed or other instrument in virtue of any public office or employment, and being guilty of such offence in the execution of his office or employment, and being thereof lawfully convicted, shall also forfeit and lose his office or employment, and be from thenceforth incapable of holding the same.

No penalty unless the duty paid be less than the duty payable.

Sect. 26. "That no party, attorney, solicitor, writer to the signet, or other person whosoever shall be liable to any penalty, disability, or forfeiture whatsoever by reason of the full purchase or consideration money not being truly expressed and set forth in or upon any such deed, bond, or other instrument as aforesaid, unless the duty or duties actually paid for the same shall be less than would have been payable for the same, in case the full purchase or consideration money had been truly expressed and set forth according to the directions of this act."

Where lands are conveyed by bargain and sale enrolled, and also by lease and release, or feoffment, the former shall be specially stamped, to testify payment of the *ad valorem* duty on the latter.

Sect. 27. "That where, upon the sale of any estate of inheritance or freehold in any lands or hereditaments in England, the same shall be conveyed by bargain and sale enrolled, and also by lease and release, or feoffment, it shall be lawful for the said commissioners of stamps, and they are hereby required, on the production of both conveyances, and on proof to their satisfaction that the full purchase or consideration money is truly expressed and set forth therein, in the manner hereby directed, and on its appearing that the release or feoffment is stamped with the *ad valorem* duty hereby charged thereon, and that the bargain and sale is stamped with the ordinary duty hereby charged thereon, to cause the deed of bargain and sale to be also stamped with some particular stamp for testifying the payment of the said *ad valorem* duty on the release or feoffment, and also where upon the sale of any such estate of inheritance or freehold, the same shall be conveyed by lease and release, and also by feoffment, it shall be lawful for the said commissioners, and they are hereby required, on the production of both conveyances and on proof to their satisfaction that the full purchase or consideration money is truly expressed and set forth therein in the manner hereby directed, and on its appearing that the release is stamped with the *ad valorem* duty hereby charged thereon, and that the feoffment is stamped with the ordinary duty hereby charged thereon, to cause the feoffment to be also stamped with some particular stamp for testifying the payment of the said *ad valorem* duty on the release, and thereupon the bargain and sale in the former case, and the feoffment in the latter case, shall be as available in law, and of the like force and effect in all respects as if the same had been stamped with the *ad valorem* duty itself, but until the same shall be so stamped as aforesaid, the same shall not be given in evidence or be available in any manner whatsoever."

Penalty on officers enrolling deeds of bargain and sale not duly stamped, 50*l.*

Sect. 28. "That if any officer of any of his majesty's courts at Westminster, or any clerk of the peace, or other person intrusted to enrol deeds of bargain and sale of estates of freehold in England, shall enrol any deed of bargain and sale, made after the 10th day of October, 1808, whereby any freehold lands or hereditaments shall be conveyed to any purchaser or purchasers, or other person or persons, by his, her, or their direction, unless such deed of bargain and sale shall appear to be stamped with the proper *ad valorem* duty hereby charged on conveyances upon the sale of lands, or other property, according to the amount of the purchase or consideration money therein expressed, or with such particular stamp as aforesaid, for testifying the payment of the said *ad valorem* duty on a deed of release or feoffment of the same lands or hereditaments, every such officer or clerk of the peace, or other person so offending, shall for every such offence forfeit and pay the sum of 50*l.*"

Sect. 29. Conveyances of property, contracted to be sold before the 12th of April, 1808, are exempted from the *ad valorem* duty, though executed after the 10th of October, 1808.

45 Geo. 3. c. 149.

Sect. 30. "That where any copyhold or customary lands or hereditaments shall be proposed to be surrendered in court, the person or persons proposing to surrender the same shall deliver to the steward of the manor or honour, whereof such lands or hereditaments shall be holden, a note in writing, stating whether the surrender proposed is upon a sale, or not upon a sale, and in the former case specifying the amount of the purchase or consideration money agreed upon for such lands or hereditaments, to the intent that the same may be inserted and set forth in words at length, in or upon the copy of court roll, to be afterwards made out of such surrender, pursuant to the directions of this act, and until such note in writing shall be delivered, the lord or lady, or steward of the manor or honour, shall not accept or take the proposed surrender, on pain of forfeiting for every such offence the sum of 50*l.*; and where the proposed surrender shall be upon a sale, if the steward shall neglect to insert the said purchase or consideration money, in or upon the copy of court roll to be afterwards made out of such surrender, in words at length, he shall for every such offence forfeit the sum of 50*l.*; and if upon the sale of any such lands or hereditaments, any person or persons shall in the note so to be delivered as aforesaid, state the proposed surrender to be not upon a sale, he, she, or they shall for every such offence forfeit the sum of 100*l.*"

On surrendering copyhold lands in court, the consideration of sale shall be stated, &c.

Penalty on neglect: steward, 50*l.*, seller, 100*l.*

Sect. 31. "That where any copyhold or customary lands or hereditaments shall be intended to be conveyed to any person or persons (either upon the sale or mortgage thereof or otherwise), by means of a surrender made out of court, or by a deed of bargain and sale, or other deed by commissioners named in a commission of bankrupt, or by executors or others, by virtue of a power given by will or by act of Parliament, the lord or lady, or steward of the manor or honour whereof such lands or hereditaments shall be parcel or be holden, shall not enrol any such surrender or deed, or accept any presentment thereof, or admit any person to be tenant of such lands or hereditaments under or by virtue of the same respectively, unless such deed or surrender, or the memorandum of such surrender, shall be duly stamped with the duty hereby charged thereon respectively, on pain of forfeiting for every such offence the sum of 50*l.*"

Penalty for enrolling surrenders out of court, or bargains and sales of copyholds, &c. not duly stamped, 50*l.*

Sect. 32. "That if any lord or lady, or steward of any manor or honour, shall accept or take any surrender, or admit any person tenant of any copyhold or customary lands or hereditaments out of court, or make any voluntary grant of any such lands or hereditaments out of court, or grant any license to demise any such lands or hereditaments out of court, without causing the same or some memorandum thereof respectively to be put in writing on vellum, parchment, or paper duly stamped with the proper duty hereby charged thereon respectively, then and in every such case he or she shall for every such offence forfeit the sum of 50*l.*"

Penalty on taking surrenders, or granting admissions, &c., out of court, not duly stamped.

Sect. 33. "That in all cases of surrenders, admittances, and voluntary grants of or to any copyhold or customary lands or hereditaments, and in all cases of licenses to demise any such lands or hereditaments, which shall be taken, made, or granted in court, the steward of the manor or honour whereof such lands or tenements shall be parcel or be holden, shall make out a copy of court roll of every such surrender, admittance, voluntary grant, and license to demise, on vellum, parchment, or paper, duly stamped according to the directions of this act, within four calendar months next after the surrender, admittance, voluntary grant, or license shall be made or granted, and shall deliver the same to the party or parties entitled thereto, or any other person authorized to receive the same, whenever the same shall be called for, after the expiration of such four calendar months, and if the same shall not be called for, then the steward shall deliver the same to the bailiff of the manor or honour, or to the crier of the court, or to some copyhold or customary tenant of the manor or honour for the use of the party or parties entitled thereto, at the next general court to be holden for the said manor or honour, and if any such steward shall neglect to make out and deliver such copy or copies of court roll in the manner and within the time aforesaid, he shall forfeit the sum of 50*l.* for every

Penalty on stewards of manors neglecting to make out and deliver copies of court roll within four months, duly stamped, 50*l.*

48 Geo. 3, c. 140.

Stamp duty a
debt to the king.

Fees.

Stewards of man-
ors may insist
on payment of
fees and the
stamp duty be-
fore accepting
surrenders.

such surrender, admittance, voluntary grant, and license to demise, of which he shall neglect to make out and deliver a copy of court roll in the manner and within the time aforesaid; and the stamp duty payable in respect of every such copy of court roll shall be a debt to his majesty, his heirs, and successors, of the steward so neglecting to make out and deliver the same, whether he shall have received the duty or not; and if he shall not have received the duty, the same shall also be a debt to his majesty, his heirs, and successors, of the party or parties entitled to such copy of court roll; and the said steward shall also be bound to make out and deliver such copy of court roll to the party or parties entitled thereto, whenever afterwards the same shall be demanded, without being paid any fees for the same; and if any fees shall have been previously paid to him for the same, such fees shall be deemed to have been paid without consideration, and the party or parties who paid such fees, his, her, or their executors or administrators shall be entitled to recover back the same in an action for money had and received to his, her, or their use, with full costs of suit."

Sec. 34. "That it shall be lawful for the steward of any manor or honour, previously to the acceptance of any surrender or the granting or making of any admittance, voluntary grant, or license, to demise in court from and after the 10th day of October, 1808, to demand and insist on the payment of his lawful fees for the same, and for the copy of court roll to be made out thereof, together with the stamp duty payable on such copy of court roll; and in case of non-payment of such fees and stamp duty, it shall be lawful for the lord or lady, or steward of the manor, to refuse to accept the surrender, or to grant the admittance or license, or to make the voluntary grant which shall be proposed or have been contracted for, until such fees and stamp duties shall be paid."

By the 55 Geo. III. c. 184, several pre-existing duties are repealed.

By sect. 2, the duties specified in schedule annexed are to be levied.

By sect. 3, the duties are to be under the management of commissioners of stamps, who are to provide stamps, &c.

By sect. 4, old stamps may be used to denote new duties; and two or more stamps to denote one duty, till single stamp provided. Stamps bearing the name of any instrument, not to be used for any other.

By sect. 5, paper, &c., stamped with former duties may be used for instruments charged with new duties of same amount, except stamps bearing the name of the instrument.

By sect. 6, stamped paper, &c., rendered useless by this act, may be exchanged, or have additional stamps.

Forgery of
stamps, &c., fe-
lony. (a)

Sec. 7. "That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp or die, or any part of any stamp or die, which shall have been provided, made, or used, in pursuance of this act, or in pursuance of any former act or acts, relating to any stamp duty or duties, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp or die as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper, with any such forged or counterfeited stamp or die, or part of any stamp or die, as aforesaid, with intent to defraud his majesty, his heirs, or successors, of any of the duties hereby granted, or any part thereof; or if any person shall utter or sell, or expose to sale, any vellum, parchment, or paper, having thereupon the impression of any such forged or counterfeited stamp or die, or part of any stamp or die, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall privately and secretly use any stamp or die which shall have been so provided,

(a) The offence of uttering a forged stamp will be complete, although at the time of the uttering certain parts of the stamp are concealed, all the parts that were visible being like a genuine stamp, though the part concealed was

unlike a genuine stamp. *R. v. Collicott, Russ. & Ry. C. C. R. 212.* Nor is it essential to the offence that the forged stamp should profess to state the amount of the duty. *Id.*

made, or used as aforesaid, with intent to defraud his majesty, his heirs, or successors, of any of the said duties or any part thereof; or if any person shall fraudulently cut, tear, or get off, or cause or procure to be cut, torn, or got off, the impression of any stamp or die which shall have been provided, made, or used in pursuance of this or any former act, for expressing or denoting any duty or duties under the care and management of the commissioners of stamps, or any part of such duty or duties, from any vellum, parchment, or paper whatsoever, with intent to use the same for or upon any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the duties hereby granted; then and in every such case every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person or persons in committing any such offence as aforesaid, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as a felon without benefit of clergy.^(a) But now, by the 1 Wil. IV. c. 66, the punishment of death for this offence is abolished, and the offender is to be transported or imprisoned. See *Fitzgerald*, Vol. II.

Death.

By sect. 8, the powers and provisions of former acts are to extend to this act.

By sect. 9, the provisions of former acts respecting agreements are to be applied only to those charged with 11.

By sect. 10, instruments having wrong stamps, but of sufficient value, to be valid. Exception, where the stamp on face of it appropriated to a different description of instrument.

By sect. 11, a penalty of 50*l.* is imposed for making, accepting, or paying bills of exchange, &c., not duly stamped.

By sect. 12, a penalty of 100*l.* is imposed for post-dating bills of exchange, &c.

By sect. 13, a penalty of 100*l.* is imposed for issuing unstamped drafts on bankers, without specifying the place where issued, or if post-dated. For receiving such drafts, 20*l.*; and on bankers for paying them, 100*l.*, &c.

By sect. 14, promissory notes to bearer on demand, not exceeding 100*l.*, may be re-issued by the original makers, without further duty.

By sect. 15, such notes are not liable to further duty, though re-issued by certain persons not strictly the original makers.

By sect. 16, notes re-issuable under the 48 or 53 Geo. III. to continue re-issuable till end of three years from the date. Penalty on frauds, 50*l.*

By sect. 18, a penalty of 50*l.* is imposed on issuing notes in future with printed dates.

By sect. 19, notes re-issuable for a limited period are to be cancelled on payment afterwards; and notes not re-issuable are to be cancelled immediately on payment. A penalty of 50*l.* is imposed for re-issuing notes, &c., contrary to law, and for not cancelling them; and for taking notes, &c., re-issued contrary to law, a 20*l.* penalty is imposed.

By sect. 29, promissory notes made out of Great Britain are not to be negotiable, unless stamped, under a penalty, on circulating such notes, &c., of 20*l.* for each.

Sect. 37. "If any person shall take possession of, and in any manner administer, any part of the personal estate and effects of any person deceased, without obtaining probate of the will or letters of administration of the estate and effects of the deceased, within six calendar months after his or her decease, or within two calendar months after the termination of any suit or dispute respecting the will or the right to letters of administration, if there shall be any such, which shall not be ended within four calendar months after the death of the deceased; every person so offending shall forfeit the sum of 100*l.*, and also a further sum, at and after the rate of 10*l.* *per centum* on the amount of the stamp duty payable on the probate of the will or letters of administration of the estate and effects of the deceased."

Penalty for not proving wills, or taking letters of administration, within a given time, 100*l.*, and 10 per cent. on the duty.

Sect. 38. No ecclesiastical court or person shall grant probate of the will or letters of administration of the estate and effects of any person deceased, without first requiring and receiving from the person or persons applying for the

Ecclesiastical courts not to grant probates or letters of administration, without affidavit of the value of effects.

(a) See note (a) in preceding page.

probate or letters of administration, or from some other competent person or persons, an affidavit, or solemn affirmation in the case of Quakers, that the estate and effects of the deceased, for or in respect of which the probate or letters of administration is or are to be granted, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, but including the leasehold estates for years of the deceased, whether absolute or determinable on lives, if any, and without deducting any thing on account of the debts due and owing from the deceased, are under the value of a certain sum to be therein specified, to the best of the deponent's or affirmant's knowledge, information, and belief, in order that the proper and full stamp duty may be paid on such probate or letters of administration; which affidavit or affirmation shall be made before the surrogate or other person, who shall administer the usual oath for the due administration of the estate and effects of the deceased."

Affidavits to be free of stamp-duty, and to be transmitted to commissioners of stamps.

Penalty for neglect, 50*l*.

Provision for the case of too high a stamp duty being paid on probates, &c.

Sect. 39. "That every such affidavit or affirmation shall be exempt from stamp duty, and shall be transmitted to the said commissioners of stamps, together with the copy of the will, or extract, or account of the letters of administration to which it shall relate, by the registrar or other officer of the court, whose duty it shall be to transmit copies of wills, and extracts or accounts of letters of administration, to the said commissioners, for the better collection of the duties on legacies and successions to personal estate upon intestacy; and if any registrar, or other officer whose duty it shall be, shall neglect to transmit such affidavit or affirmation to the said commissioners of stamps as hereby directed, every person so offending shall forfeit the sum of 50*l*."

Sect. 40. "That where any person, on applying for the probate of a will or letters of administration, shall have estimated the estate and effects of the deceased to be of greater value than the same shall have afterwards proved to be, and shall in consequence have paid too high a stamp duty thereon, if such person shall produce the probate or letters of administration to the said commissioners of stamps within six calendar months after the true value of the estate and effects shall have been ascertained, and it shall be discovered that too high a duty was first paid on the probate or letters of administration, and shall deliver to them a particular inventory and account, and valuation of the estate and effects of the deceased, verified by an affidavit, or solemn affirmation in the case of Quakers; and if it should thereupon satisfactorily appear to the said commissioners that a greater stamp duty was paid on the probate or letters of administration than the law required, it shall be lawful for the said commissioners to cancel and expunge the stamp on the probate or letters of administration, and to substitute another stamp for denoting the duty which ought to have been paid thereon, and to make an allowance for the difference between them, as in the cases of spoiled stamps, or if the difference be considerable, to repay the same in money, at the discretion of the said commissioners."

Provision for the case of too little stamp duty being paid on probates, &c.

Sect. 41. "That where any person, on applying for the probate of a will or letters of administration, shall have estimated the estate and effects of the deceased to be of less value than the same shall have afterwards proved to be, and shall in consequence have paid too little stamp duty thereon, it shall be lawful for the said commissioners of stamps, on delivery to them of an affidavit or solemn affirmation of the value of the estate and effects of the deceased, to cause the probate or letters of administration to be duly stamped, on payment of the full duty which ought to have been originally paid thereon in respect of such value, and of the further sum or penalty payable by law for stamping deeds after the execution thereof, without any deduction or allowance of the stamp duty originally paid on such probate or letters of administration: provided always, that if the application shall be made within six calendar months after the true value of the estate and effects shall be ascertained, and it shall be discovered that too little duty was at first paid on the probate or letters of administration, and if it shall appear by affidavit or solemn affirmation, to the satisfaction of the said commissioners, that such duty was paid in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the estate and effects belonged to the deceased, and without any intention of fraud, or to delay the payment of the full and proper duty, then it shall be lawful for the said commissioners to remit the before-

mentioned penalty, and to cause the probate or letters of administration to be duly stamped, on payment only of the sum which shall be wanting to make up the duty which ought to have been first paid thereon."

55 Geo. 3, c. 194.

Sect. 42. "Provided always, that in cases of letters of administration, on which too little stamp duty shall have been paid at first, the said commissioners of stamps shall not cause the same to be duly stamped in the manner aforesaid, until the administrator shall have given such security to the ecclesiastical court or ordinary, by whom the letters of administration shall have been granted, as ought by law to have been given on the granting thereof, in case the full value of the estate and effects of the deceased had been then ascertained; and also that the said commissioners of stamps shall yearly or oftener transmit an account of the probates and letters of administration, upon which the stamps shall have been rectified, in pursuance of this act, to the several ecclesiastical courts by which the same shall have been granted, together with the value of the estate and effects of the deceased, upon which such rectification shall have proceeded."

Administrator to give the proper security before administration is duly stamped.

Sect. 43. "That where too little duty shall have been paid on any probate or letters of administration, in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the estate and effects belonged to the deceased, if any executor or administrator acting under such probate or letters of administration shall not, within six calendar months after the passing of this act (11th July, 1815), or after the discovery of the mistake or misapprehension, or of any estate or effects not known at the time to have belonged to the deceased, apply to the said commissioners of stamps, and pay what shall be wanting to make up the duty which ought to have been paid at first on such probate or letters of administration, he or she shall forfeit the sum of 100*l.*, and also a further sum at and after the rate of 10*l.* per centum on the amount of the sum wanting to make up the proper duty."

Penalty on executors, &c., not paying the full duty on probates, &c., in a given time after discovery of two little paid at first, 100*l.* and 10*l.* per cent. on the duty wanting.

Sect. 44. "That, from and after the expiration of three calendar months from the passing of this act (11th July, 1815), it shall not be lawful for any ecclesiastical court or person to call in and revoke or to accept the surrender of any probate or letters of administration, on the ground only of too high or too low a stamp duty having been paid thereon, as heretofore hath been practised; and if any ecclesiastical court or person shall so do, the commissioners of stamps shall not make any allowance whatever for the stamp duty on the probate or letters of administration which shall be so annulled."

Ecclesiastical courts not to take surrenders of probates, &c. on the ground only of wrong duty paid thereon.

By sect. 45, the commissioners of stamps may give credit for the duty on probates and letters of administration in certain cases.

By sect. 46, the commissioners may extend the credit, if necessary.

By sect. 47, the probate or letters of administration stamped on credit are to be deposited with the commissioners.

By sect. 48, the duty for which credit shall be given is to be a debt to the crown.

By sect. 49, provision is made for the case of letters of administration *de bonis non*, taken out before payment of the duty, for which credit shall be given.

By sect. 50, directions are made concerning affidavits by executors, &c., residing out of England, relating to trust property.

By sect. 51, a return of the duty on probates, &c., is to be made in respect of debts, if claimed in three years.

By sect. 52, affidavits relating to stamp duties, if no express provision to the contrary, are to be made before commissioners, &c.

Sect. 53. "That all and every person and persons before whom any affidavit or solemn affirmation is or shall be required or directed to be made by this or any former or future act of Parliament relating to any stamp duties, shall be and they are hereby authorized to take the same, and administer the proper oath or affirmation for that purpose; and if any person making any such affidavit or affirmation shall knowingly and wilfully make a false oath or affirmation of or concerning any of the matters to be therein specified and set forth, every person so offending, and being thereof lawfully convicted, shall be subject and liable to such pains and penalties as by any law now in force persons convicted of wilful and corrupt perjury are subject and liable to." See, *ante*, *Perjury*.

Penalty for perjury.

9 Geo. 4, c. 46.
tions to be laid
by any persons
as to stage-
coaches, repealed.

Justices may
quash informa-
tions laid by any
other person than
an officer of
stamps, on pay-
ment of costs.

Penalties of 20l.
and 50l. under 55
Geo. 3, c. 100, as
to receipts in Ire-
land, reduced to
10l.

So much of 55
Geo. 3, c. 100, as
declared certain
offences by clerks
as to receipts to
be misdemeanors,
repealed.
Penalty on per-
sons committing
such offences, 10l.

Recovery of pe-
nalties.

On proceedings
pending for pe-
nalties under 55
Geo. 3, c. 100,
judgment or con-
viction shall be
only for penalti-
ties imposed by
this act.

Act to make further Regulations relating to the Licensing of Stage-Coaches,' shall be repealed, whereby it is enacted, that it shall be lawful for any person or persons whatsoever, to lay, make, and prosecute any information before any justice or justices of the peace against any person or persons, for the recovery of any fine, penalty, or forfeiture made or incurred by virtue of the said act, or of any other act or acts relating to carriages or vehicles kept, used, or employed to convey passengers for hire; and so much of the said recited act is hereby repealed accordingly, to all intents and purposes whatsoever, as well with relation to any offences committed at any time before the passing of this act, for which informations or proceedings may be depending or in process at the time of the passing of this act, as with relation to any offences which may be committed at any time after the passing of this act."

Sect. 18. "That from and after the passing of this act, in all cases where any information shall have been laid or shall be laid before any justice or justices of the peace in Great Britain, by any person other than the solicitor of stamps in England or Scotland, or some officer of the stamp duties, for the recovery of any fine, penalty, or forfeiture made or incurred by virtue of any act or acts relating to any duties under the management of the commissioners of stamps, it shall be lawful for the person or persons against whom such information shall have been or shall be laid to apply to the justice or justices of the peace before whom the information shall have been laid, or to the justices of the peace at the general quarter sessions to which any appeal shall have been or shall be duly made from any conviction obtained or made on any such information or laid by any person other than as aforesaid, to quash such information or conviction upon payment by the defendant of such costs and charges as to such justice or justices shall seem reasonable; and it shall be lawful for such justice or justices, if they shall think fit so to do, and such justice or justices are hereby authorized and empowered, upon such application, to quash such information or conviction accordingly."

Sect. 19. "And whereas by an act passed in the fifty-fifth year of the reign of his late majesty King George the Third, intituled, 'An Act to provide for the Collection and Management of Stamp Duties on Bills of Exchange, Promissory Notes, Receipts, and Game Certificates in Ireland,' three several penalties of 20l. each, and one penalty of 50l., are imposed upon persons committing the several offences specified in the said last-recited act, in relation to the stamp duties on receipts in Ireland;" it is enacted, "that from and after the expiration of ten days next after the passing of this act, any person who shall have committed or shall commit any of the offences in the said act specified, in relation to the stamp duties on receipts in Ireland, shall, upon conviction of any such offence, forfeit and pay the sum of 10l. and no more; anything in the said recited act to the contrary notwithstanding."

Sect. 20. "And that, from and after the expiration of ten days next after the passing of this act, so much of the last recited act as declares that any clerk or person in the employment of another, who shall commit certain offences in the said act mentioned relating to receipts, shall, upon being convicted thereof, be deemed guilty of a misdemeanor, and be punished by fine and imprisonment, and other corporal punishment, shall be and the same is hereby repealed; and, from and after the expiration of ten days next after the passing of this act, any clerk or other person in the employment of another, who shall have committed or shall commit any such offence, shall, upon conviction for any such offence, forfeit the sum of 10l., and no more, in addition to the penalty to which the employer or employers of such person is or are by the said last-mentioned act or by this act subject and liable in respect of such offence."

Sect. 21. "That the said several penalties of 10l. by this act imposed on offences committed in Ireland, shall be recovered in the same manner as any penalty imposed by the acts in force in Ireland, with respect to stamp duties, may be recovered."

Sect. 22. "That in every case in which any suit, proceeding, or prosecution shall have been commenced with relation to any such offences under the said last-recited act, and in which judgment or a conviction shall not have been obtained before the passing of this act, such suit, proceeding, or prosecution, shall not be abated or affected in consequence of the provisions of this

partners, or joint tenants, or tenants in common, every such agent or other person shall, for every such offence, forfeit and pay the sum of 50*l*.

6 Geo. 4, c. 41.
Penalty.

By sect. 5 the powers of former acts relating to stamps are to extend to this act.

The 9 Geo. IV. c. 13, regulates the duties on insurances against fire.

9 Geo. 4, c. 13.

The 9 Geo. IV. c. 23, is an act to enable bankers in England to issue certain unstamped promissory notes and bills of exchange, upon payment of a composition in lieu of the stamp duties thereon.

9 Geo. 4, c. 23.

By the 9 Geo. IV. c. 27, from the 5th day of July, 1828, the allowances granted by the 44 Geo. III. c. 98, on the purchase of stamps for receipts are repealed, and a new allowance is to be made in lieu thereof.

9 Geo. 4, c. 27.

By sect. 2 the commissioners are to issue stamps for receipts without any charge for paper.

By sect. 3 the commissioners are authorized to grant the allowance on stamping special forms of receipts.

Sect. 4. "And whereas it is highly improper that any vendor of stamps for receipts should, upon the sale thereof, make any charge for the paper upon which such stamps are impressed, seeing that such paper is by this act directed to be supplied *gratis* by the commissioners of stamps;" it is enacted, "that if any person or persons, upon the sale of any stamp or stamps for a receipt or receipts, shall make any charge to the purchaser of such stamp or stamps for the paper whereon the same shall be impressed, or shall, under any colour or pretence whatever, demand or receive a greater price or sum than the amount of the stamp duty denoted by such stamp or stamps, every such person so offending shall, for every such offence, forfeit and pay the sum of 10*l*., to be sued for and recovered, levied and applied, in such and the same manner as any penalties under any other act or acts relating to stamp duties may be sued for, recovered, levied, and applied."

Penalty on vendors of receipt-stamps charging for the paper, 10*l*.

Sect. 5. "That nothing in this act contained shall extend or be construed to extend to prevent any person or persons from making any charge for any bound book containing stamps for receipts, or for any folio sheet of paper containing not more than one stamp, or for any skin or piece of vellum or parchment whereon any such stamp or stamps may be impressed, nor to inflict any penalty or penalties by reason of the making of any such charge as aforesaid."

Not to prevent any charge for books of receipt-stamps, or for vellum or parchment.

Sect. 6. "And whereas many tradesmen, shopkeepers, and other persons have, through ignorance of the law or inadvertence, written receipts upon paper not duly stamped as the law requires, whereby they have unwittingly incurred divers pecuniary penalties; and it is expedient to relieve all persons from such pecuniary penalties as have been so incurred before the passing of this act;" it is enacted, "that all and every person or persons who may have written or signed, or caused to be written or signed, upon vellum, parchment, or paper not duly stamped as the law requires, any receipt, discharge, or acquittance, for or upon the payment of money, shall be and is and are hereby relieved and indemnified from and against all pecuniary forfeitures and penalties incurred by reason of any such offence as aforesaid, committed at any time or times before the passing of this act; and that all actions, informations, prosecutions, and proceedings whatsoever, which have been commenced, filed, or prosecuted, and are now pending, or which shall or may hereafter be commenced, filed, or prosecuted, against any person or persons, for the recovery of any such pecuniary forfeiture or penalty as aforesaid, incurred before the passing of this act, shall be and the same are hereby discharged and made void."

Persons relieved from all pecuniary penalties incurred by giving unstamped receipts prior to the passing of this act.

The 9 Geo. IV. c. 49, is an act to amend the laws in force relating to the stamp duties on sea insurances, on articles of clerkship, on certificates of writers to the signet, and of conveyancers and others, on licenses to dealers in gold and silver plate, and pawnbrokers, on drafts on bankers, and on licenses for stage-coaches in Great Britain; and on receipts in Ireland.

9 Geo. 4, c. 49.

By s. 16, so much of 50 Geo. III. c. 48, as directs the names of proprietors of stage-coaches to be painted on the doors thereof, is repealed; but nothing therein contained is to repeal or alter any part of 25 Geo. III. c. 51, as to names of licensed persons being painted on the doors of coaches, &c.

Sect. 17. "That from and after the passing of this act so much of an act passed in the seventh year of the reign of his present majesty, intituled, 'An

So much of 7 (Geo. 4, c. 33, as permits informa-

55 Geo. 3, c. 184. ADMISSION—(Continued.)

caster, or of the counties palatine of Chester, Lancaster, and Durham, shall be also admitted to act as a solicitor in any other of the said courts, or in any inferior court of equity, or as an attorney in any court of law in England, the latter admission shall be free of duty.

Provided such attorney or solicitor shall have paid the proper stamp duty on his former admission, according to the laws then in force.

But, in all cases not expressly exempted, the said duty is to be paid on every admission of the same person.

ADMISSION of any person to act as writer to the signet, or as a solicitor, agent, attorney, or procurator, in any court in Scotland, or as a clerk or officer in any court in Scotland, whose business and emoluments (like those of a solicitor) shall depend upon his being retained and employed by clients or suitors, and shall therefore be wholly uncertain in amount 25 0 0

And where any person shall be admitted to act as a solicitor, or agent, in the court of session, judiciary, or commission of teinds in Scotland, who shall not have served a clerkship or apprenticeship for five years, to a writer to the signet, or to a solicitor or agent, under regular articles or indentures of clerkship or apprenticeship, which shall have paid the stamp duty payable by law for the same at the date thereof; his admission shall be charged with a further duty of 60 0 0

And where any person shall be admitted to act as a procurator or solicitor, in the High Court of Admiralty in Scotland, the Commissary Court at Edinburgh, or any inferior court in Scotland, who shall not have served a clerkship or apprenticeship for five years, to a writer to the signet, or to a solicitor, agent, or procurator, under regular articles or indentures of clerkship or apprenticeship, which shall have paid the stamp duty payable by law for the same at the date thereof; his admission shall be charged with a further duty of 30 0 0

Exemptions from the preceding and all other Stamp Duties.

Where any person duly admitted a writer to the signet, or a solicitor, agent, or attorney, in either of the courts of session, judiciary, exchequer, or commission of tiends, shall be also admitted to act in either of those capacities in any other or others of the same courts, his latter admission shall be free of duty.

Where any person duly admitted as a solicitor or procurator in the High Court of Admiralty, or in the Commissary Court at Edinburgh, shall be also admitted a solicitor or procurator in the other of those courts, his latter admission shall be free of duty.

And where any person, duly admitted a solicitor or procurator in any of the inferior courts in Scotland, shall be also admitted a solicitor or procurator in any other or others of the same courts, his latter admission shall be free of duty.

Provided, in each of the foregoing cases, the proper stamp duty shall have been paid, on the former admission of such person, according to the laws then in force.

But in all cases not expressly exempted, the said duty is to be paid on every admission of the same person.

ADMISSION of any person as a master in ordinary in chancery, or as one of the six clerks, or one of the cursitors, of the court of Chancery in England, or as a sworn clerk, side clerk, clerk in court, or other clerk or officer whatsoever, in any court in Great Britain, who must necessarily be employed to do certain official business, and whose emoluments shall therefore be so far fixed and certain,

Where the salary, fees, and emoluments of the office or appointment shall not amount to 50 <i>l.</i> per annum	2 0 0
And where the same shall amount to 50 <i>l.</i> and not amount to 100 <i>l.</i> per annum	4 0 0

ADMISSION—(Continued.)

	£	s.	d.	55 Geo. 3, c. 184.
And where the same shall amount to 100 <i>l.</i> and not amount to 200 <i>l.</i> per annum	6	0	0	
And where the same shall amount to 200 <i>l.</i> and not amount to 300 <i>l.</i> per annum	12	0	0	
And where the same shall amount to 300 <i>l.</i> and not amount to 500 <i>l.</i> per annum	25	0	0	
And where the same shall amount to 500 <i>l.</i> and not amount to 750 <i>l.</i> per annum	35	0	0	
And where the same shall amount to 750 <i>l.</i> and not amount to 1000 <i>l.</i> per annum	50	0	0	
And where the same shall amount to 1000 <i>l.</i> and not amount to 1500 <i>l.</i> per annum	75	0	0	
And where the same shall amount to 1500 <i>l.</i> and not amount to 2000 <i>l.</i> per annum	100	0	0	
And where the same shall amount to 2000 <i>l.</i> and not amount to 3000 <i>l.</i> per annum	150	0	0	
And where the same shall amount to 3000 <i>l.</i> or upwards, per annum	200	0	0	

The said fees and emoluments to be estimated according to the average amount thereof for three years preceding, if practicable; and if not, according to the best information that can be obtained.

Exemptions from the preceding and all other Stamp Duties.

Where any officer shall be admitted annually, every admission after the first shall be free of duty, provided the proper duty shall have been paid on his first admission.

All admissions of officers, proceeding upon any grants of, or appointments to, offices, which shall be charged with the duties hereinafter mentioned.

But in all cases not expressly exempted, the proper duty is to be paid on every admission of the same person.

ADMISSION of any person to act as notary public. See *Faculty*.

ADMISSION of any person to be a member of either of the four inns of court in England 25 0 0

ADMISSION of any person to be a member of either of the societies commonly called inns of chancery in England 3 0 0

ADMISSION of any person to be a fellow of the college of physicians in England or Scotland 25 0 0

ADMISSION or license of any person, by the College of Physicians in England or Scotland, to exercise the faculty of physic, or practise as a licentiate 15 0 0

ADMISSION or matriculation of any person in either of the universities in England 1 0 0

ADMISSION of any person to the degree of a bachelor of arts, in either of the universities in England, for the register or entry thereof, If conferred in the ordinary course of the university 3 0 0

If conferred by special grace, or royal mandate, or by reason of nobility, or otherwise out of the ordinary course 5 0 0

ADMISSION of any person to any other degree in either of the universities in England, for the register or entry thereof, If conferred in the ordinary course of the university 6 0 0

If conferred by special grace, or royal mandate, or by reason of nobility, or otherwise out of the ordinary course, conferring any right of election in such university 10 0 0

ADMISSION of any person to the degree of doctor of medicine, in either of the universities in Scotland 10 0 0

Note.—The said hereinbefore mentioned duties on admissions are, in all cases not expressly provided for, to be charged on the instruments of admission, delivered to the persons admitted, by whatsoever name the same may be called, if there be any such, or if not, on the register, entry, or memorandum of each admission, in the rolls, books, or records of the court, college, inn, or society, in which the admission shall be made; or for want thereof, on the rescript or warrant for such admission.

ADMISSION of any person into any corporation or company, in any city, borough, burgh, or town corporate in Great Britain; for the register, entry, or memorandum thereof, in the court book, roll, or record of such corporation or company;

Where the admission shall be in respect of birth, apprenticeship, or marriage

1 0 0

And where the same shall be upon any other ground (a)

3 0 0

Exemptions from the preceding and all other Stamp Duties.

The admissions of craftsmen or others entering in any corporation, within any royal burgh, burgh of regality, or burgh or barony, in Scotland, incorporated by the magistrates and council of such burgh; provided such craftsmen or others shall have been previously admitted freemen or burgesses of the burgh, and have paid the proper stamp duty on such admission, according to the laws then in force.

ADMISSION to ecclesiastical benefices in Scotland. See *Collation*.

ADMISSION or admittance to copyhold lands. See *Copyhold*.

AFFIDAVIT, not made for the immediate purpose of being filed, read, or used, in any court of law or equity; for every sheet or piece of paper, parchment, or vellum, on which the same shall be written or printed

0 2 6

Exemptions from the preceding and all other Stamp Duties.

Affidavits required or authorized by law, to be made before any justice or justices of the peace; or before any commissioner or commissioners of any public board of revenue, or any of the officers acting under them; or before any other commissioner or commissioners appointed or to be appointed by act of Parliament.

Affidavits to be made pursuant to the act of the forty-eighth year of his majesty's reign, c. 149, by persons intruding with the personal or moveable estate or effects of persons deceased in Scotland.

Affidavits to be made pursuant to this act by persons applying for probates of wills and letters of administration in England, regarding the value of the estate and effects of the deceased.

Affidavits which may be required at the Bank of England, to prove the death of any proprietor of any share in any of the stocks or funds transferable there, or to identify the person of any such proprietor, or to remove any other impediment to the transfer of any such stocks or funds.

Also, all affidavits relating to the loss, mutilation, or defacement of any bank note or bank post bill.

See also the general exemptions at the end of this part of the schedule.

AGREEMENT, or contract, accompanied with a deposit of title-deeds, for making a mortgage, wadset, or other security on an estate or property therein comprised. See *Mortgage*.

AGREEMENT, (b) or any minute or memorandum of an agreement, made in England under hand only, or made in Scotland without any clause of registration (and not otherwise charged in this schedule, nor expressly exempted from all stamp duty), where the matter thereof shall be of the value of 20*l.* or upwards, whether the same shall be only evidence of a contract, or obligatory upon the parties, from its being a written instrument, together with every schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto;

Where the same shall not contain more than 1080 words (being

(a) Where several persons had been admitted to the freedom of a corporation upon one stamp, the admission of the person first named was held to be good, and that of all the others void.

Per Ashhurst, J., cited in Gilby v. Lockyer, Doug. 216; the King v. Reeks, 2 Lord Raym. 1446; 12 East, 8.

(b) See the cases and law in 1 *Chit. Col. Stat.* 962.

AGREEMENT—(*Continued.*)

£ s. d. 55 Geo. 3, c. 184.

the amount of fifteen common law folios, or sheets of seventy-two words each)	1	0	0
And where the same shall contain more than 1080 words	1	15	0
And for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	5	0
Provided always, that where <i>divers letters</i> shall be offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if <i>anyone of such letters</i> shall be stamped with a duty of 1 <i>l.</i> 15 <i>s.</i> , although the same shall, in the whole, contain twice the number of 1080 words or upwards.			

Exemptions from the preceding and all other Stamp Duties.

Label, slip, or memorandum, containing the heads of insurances to be made by the corporations of the Royal Exchange Assurance, and London Assurance; or by the corporations of the Royal Exchange Assurance, of houses and goods from fire; and London Assurance, of houses and goods from fire.

Memorandum or agreement, for granting a lease or tack at rack rent, of any messuage, land, or tenement, under the yearly rent of 5*l.*

Memorandum or agreement, for the hire of any labourer, artificer, manufacturer, or menial servant. (a)

Memorandum, letter, or agreement, made for or relating to the sale of any *goods, wares, or merchandize*. (b)

Memorandum or agreement made between the master and mariners of any ship or vessel, for wages, on any voyage coastwise, from port to port, in Great Britain.

Letters containing any agreement (not before exempted) in respect of *any merchandize*, or evidence of such an agreement, which shall pass by the post, between merchants or other persons carrying on trade or commerce, in Great Britain, and residing and actually being, at the time of such letters, at the distance of fifty miles from each other.

See also the general exemptions at the end of this part of the schedule.

APPOINTMENT, in execution of a power, of land, or other property, real or personal, or of any use or interest therein, where made by any writing, not being a deed or will . . . 1 15 0

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words (being the amount of thirty common law folios or sheets, of seventy-two words each) or upwards, then for every entire quantity of 1080 words (or fifteen common law folios or sheets) contained therein, over and above the first 1080 words, a further *progressive* duty of . . . 1 5 0

If made by deed. See *Deed*.

APPOINTMENT of a chaplain, operating as a qualification to hold two ecclesiastical benefices in England . . . 2 0 0

APPOINTMENT of a game-keeper. See *Deputation*.

APPOINTMENT to offices. See *Admission, Grant*.

APPRAISEMENT or valuation of any estate or effects, real or personal, heritable or moveable; or of any interest therein; or of the annual value thereof; or of any dilapidations; or of any repairs wanted; or of the materials and labour used, or to be used, in any buildings; or of any artificers' work whatsoever, (c)

(a) See *Apprentices*, Vol. I.; *Servants*, *ante*, p. 360.

(b) See 1 *Chit. Col. Stat.* 966.

(c) A valuation of parish lands by two resident parishioners, appointed for that purpose by parish officers, for

the purpose of equalizing a rate for the relief of the poor, does not require an appraisement stamp, it being merely for the information of the parties employing the valuers. *Atkinson v. Fell*, 5 *M. & S.* 240.

55 Geo. 3, c. 181. APPRAISEMENT—(Continued.)

£ s. d.

Where the amount of such appraisement or valuation shall not exceed 50 <i>l</i> .	0	2	6
And where it shall exceed 50 <i>l</i> . and not exceed 100 <i>l</i> .	0	5	0
And where it shall exceed 100 <i>l</i> . and not exceed 200 <i>l</i> .	0	10	0
Where the amount of such appraisement or valuation shall exceed 200 <i>l</i> . and not exceed 500 <i>l</i> .	0	15	0
And where it shall exceed 500 <i>l</i> .	1	0	0

Exemptions.

Appraisements or valuations made in pursuance of the order of any court of admiralty, or vice-admiralty, or of any court of appeal from any sentence, adjudication, or judgment of any court of admiralty, or vice-admiralty.

Appraisements or valuations of any property, for the purpose of ascertaining the legacy duty payable in respect thereof.

APPRAISER, license to act as such. See *License*.

APPRENTICESHIP and CLERKSHIP. (a) Indenture or other instrument or writing, containing the covenants, articles, or agreements for or relating to the service of any apprentice, clerk, or servant, who shall be put or placed to or with any master or mistress, to learn any profession, trade, or employment whatsoever; *except articles of clerkship to attorneys and others, hereinafter specifically charged.* (a)

If the sum of money, or the value of any other matter or thing which shall be paid, given, assigned, or conveyed, or be secured to be paid, given, assigned, or conveyed, to or for the use or benefit of the master or mistress, with or in respect of such apprentice, clerk, or servant, or both, the money and value of such other matter or thing shall not amount to 50*l*.

1 0 0

If the same shall amount to 50*l*. and not amount to 100*l*.

2 0 0

If the same shall amount to 100*l*. and not amount to 200*l*.

3 0 0

If the same shall amount to 200*l*. and not amount to 300*l*.

6 0 0

If the same shall amount to 300*l*. and not amount to 400*l*.

12 0 0

If the same shall amount to 400*l*. and not amount to 500*l*.

20 0 0

If the same shall amount to 500*l*. and not amount to 600*l*.

25 0 0

If the same shall amount to 600*l*. and not amount to 800*l*.

30 0 0

If the same shall amount to 800*l*. and not amount to 1000*l*.

40 0 0

And if the same shall amount to 1000*l*. or upwards

50 0 0

And where there shall be no such consideration as aforesaid, moving to the master or mistress; if the indenture or other instrument shall not contain more than 1080 words

60 0 0

And if the same shall contain more than that quantity

1 0 0

APPRENTICESHIP and CLERKSHIP.—Indenture, or other instrument or writing, containing the covenants, articles, or agreements for or relating to the service of any such apprentice, clerk, or servant, as aforesaid, who shall be put or placed to or with a new master or mistress, either by assignment, transfer, or turnover, or upon the death, absence, or incapacity of the former master or mistress, or otherwise, or any writing whatever, whereby any such assignment, transfer, or turnover, may be effectuated or ascertained.

Where there shall be any such valuable consideration as aforesaid, moving to the new master or mistress, exclusive of any part of the consideration to the former master or mistress, which may be returned, or given, or transferred, to the new master or mistress.

Such and the like duty in proportion to the amount or value of such new consideration only, as is before charged on any original indenture of apprenticeship.

And where there shall be no such new consideration, if the indenture or other instrument or writing shall not contain more than 1080 words

1 0 0

And if the same shall contain more than that quantity

1 15 0

And where there shall be duplicates, or two parts, of any such

(a) See the cases fully collected, title *Apprentices*, Vol. I.

APPRENTICESHIP—(Continued.)

£ s. d. 55 Geo. 3, c. 181.

indenture or other instrument or writing, relating to any such apprentice, clerk, or servant, as aforesaid, each part shall be charged with the duty before mentioned, in all cases where the same shall not exceed 35s.; and where the same shall exceed that sum, only one part shall be charged with the said *ad valorem* duty, or duty in proportion to the consideration, and the other part shall be charged with a duty of . . .

1 15 0

Note.—And the part bearing the *ad valorem* or higher duty shall belong to and be kept by the apprentice, clerk, or servant, or some person on his or her behalf, upon his or her being first placed out; and in case of any subsequent placing out, by assignment or otherwise, the part bearing the *ad valorem* duty on that occasion (if any) shall belong to and be kept by the former master or mistress, or his or her representatives, or by the apprentice, clerk, or servant, or some person on his or her behalf; and in each of the said cases, the other part, bearing the lower duty hereby charged thereon, shall belong to and be kept by the original master or mistress, or the new master or mistress, as the case may be; and the same shall be respectively received in evidence accordingly.

Exemptions from the preceding and all other Stamp Duties.

Indentures and all other instruments for placing out poor children apprentices, by or at the sole charge of any parish or township, or by or at the sole charge of any public charity, or pursuant to the act of the 32d year of his majesty's reign, for the further regulation of parish apprentices.

And all assignments of such poor apprentices, provided there shall be no such valuable consideration as aforesaid given to the new master or mistress, other than what may have been or shall be given by any parish or township, or by any public charity.

ARTICLES of CLERKSHIP, or contract, whereby any person shall first become bound to serve as a clerk, in order to his admission as an attorney or solicitor,

In any of his majesty's courts at Westminster . . .

120 0 0

In any of the courts of the great sessions in Wales, or of the counties Palatine of Chester, Lancaster, and Durham; or in any other court of record in England, holding pleas, where the debt or damage amounts to 40s. . .

60 0 0

And for any counterpart or duplicate of any such articles or contracts of clerkship . . .

1 15 0

ARTICLES of CLERKSHIP, or contract, whereby any person (*not being an attorney of one of the courts at Westminster*) shall first become bound to serve as a clerk, in order to his admission as a sworn clerk, in the office of the six clerks of the Court of Chancery, or as a sworn clerk, clerk in court, or side clerk, in the office of pleas, or the office of his majesty's remembrancer in the Court of Exchequer, in England . . .

120 0 0

And for any counterpart or duplicate thereof . . .

1 15 0

ARTICLES of CLERKSHIP, or contract, whereby any person shall become bound to serve as a clerk, in order to any such admission as aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated by consent, or by rule of court, or in any other event . . .

1 15 0

And for any counterpart or duplicate thereof . . .

1 15 0

And where any person, having entered into any articles of clerkship or contract, duly stamped according to the law in force at the date thereof, in order to his admission as a sworn clerk, clerk in court, or side clerk, in the Court of Chancery, or Court of Exchequer, or in order to his admission as an attorney or solicitor in any of the courts at Westminster, shall afterwards enter into any such articles or contract as aforesaid, for any other of those purposes, the said last-mentioned articles or contract shall be charged only with a duty of . . .

1 15 0

55 Geo. 3, c. 184. APPRAISEMENT—(Continued.)

	£	s.	d.
Where the amount of such appraisement or valuation shall not exceed 50 <i>l</i> .	0	2	6
And where it shall exceed 50 <i>l</i> . and not exceed 100 <i>l</i> .	0	5	0
And where it shall exceed 100 <i>l</i> . and not exceed 200 <i>l</i> .	0	10	0
Where the amount of such appraisement or valuation shall exceed 200 <i>l</i> . and not exceed 500 <i>l</i> .	0	15	0
And where it shall exceed 500 <i>l</i> .	1	0	0

Exemptions.

Appraisements or valuations made in pursuance of the order of any court of admiralty, or vice-admiralty, or of any court of appeal from any sentence, adjudication, or judgment of any court of admiralty, or vice-admiralty.

Appraisements or valuations of any property, for the purpose of ascertaining the legacy duty payable in respect thereof.

APPRAISER, license to act as such. See *License*.

APPRENTICESHIP and CLERKSHIP. (a) Indenture or other instrument or writing, containing the covenants, articles, or agreements for or relating to the service of any apprentice, clerk, or servant, who shall be put or placed to or with any master or mistress, to learn any profession, trade, or employment whatsoever; except articles of clerkship to attorneys and others, hereinafter specifically charged. (a)

If the sum of money, or the value of any other matter or thing which shall be paid, given, assigned, or conveyed, or be secured to be paid, given, assigned, or conveyed, to or for the use or benefit of the master or mistress, with or in respect of such apprentice, clerk, or servant, or both, the money and value of such other matter or thing shall not amount to 30 <i>l</i> .	1	0	0
If the same shall amount to 30 <i>l</i> . and not amount to 50 <i>l</i> .	2	0	0
If the same shall amount to 50 <i>l</i> . and not amount to 100 <i>l</i> .	3	0	0
If the same shall amount to 100 <i>l</i> . and not amount to 200 <i>l</i> .	6	0	0
If the same shall amount to 200 <i>l</i> . and not amount to 300 <i>l</i> .	12	0	0
If the same shall amount to 300 <i>l</i> . and not amount to 400 <i>l</i> .	20	0	0
If the same shall amount to 400 <i>l</i> . and not amount to 500 <i>l</i> .	25	0	0
If the same shall amount to 500 <i>l</i> . and not amount to 600 <i>l</i> .	30	0	0
If the same shall amount to 600 <i>l</i> . and not amount to 800 <i>l</i> .	40	0	0
If the same shall amount to 800 <i>l</i> . and not amount to 1000 <i>l</i> .	50	0	0
And if the same shall amount to 1000 <i>l</i> . or upwards	60	0	0

And where there shall be no such consideration as aforesaid, moving to the master or mistress; if the indenture or other instrument shall not contain more than 1080 words . . . 1 0 0

And if the same shall contain more than that quantity . . . 1 15 0

APPRENTICESHIP and CLERKSHIP.—Indenture, or other instrument or writing, containing the covenants, articles, or agreements for or relating to the service of any such apprentice, clerk, or servant, as aforesaid, who shall be put or placed to or with a new master or mistress, either by assignment, transfer, or turnover, or upon the death, absence, or incapacity of the former master or mistress, or otherwise, or any writing whatever, whereby any such assignment, transfer, or turnover, may be effectuated or ascertained.

Where there shall be any such valuable consideration as aforesaid, moving to the new master or mistress, exclusive of any part of the consideration to the former master or mistress, which may be returned, or given, or transferred, to the new master or mistress. *Such and the like duty in proportion to the amount or value of such new consideration only, as is before charged on any original indenture of apprenticeship.*

And where there shall be no such new consideration, if the indenture or other instrument or writing shall not contain more than 1080 words . . . 1 0 0

And if the same shall contain more than that quantity . . . 1 15 0

And where there shall be duplicates, or two parts, of any such

(a) See the cases fully collected, title *Apprentices*, Vol. I.

APPRENTICESHIP—(Continued.)

£ s. d. 55 Geo. 3, c. 184.

indenture or other instrument or writing, relating to any such apprentice, clerk, or servant, as aforesaid, each part shall be charged with the duty before mentioned, in all cases where the same shall not exceed 35s.; and where the same shall exceed that sum, only one part shall be charged with the said *ad valorem* duty, or duty in proportion to the consideration, and the other part shall be charged with a duty of . . . 1 15 0

Note.—And the part bearing the *ad valorem* or higher duty shall belong to and be kept by the apprentice, clerk, or servant, or some person on his or her behalf, upon his or her being first placed out; and in case of any subsequent placing out, by assignment or otherwise, the part bearing the *ad valorem* duty on that occasion (if any) shall belong to and be kept by the former master or mistress, or his or her representatives, or by the apprentice, clerk, or servant, or some person on his or her behalf; and in each of the said cases, the other part, bearing the lower duty hereby charged thereon, shall belong to and be kept by the original master or mistress, or the new master or mistress, as the case may be; and the same shall be respectively received in evidence accordingly.

Exemptions from the preceding and all other Stamp Duties.

Indentures and all other instruments for placing out poor children apprentices, by or at the sole charge of any parish or township, or by or at the sole charge of any public charity, or pursuant to the act of the 32d year of his majesty's reign, for the further regulation of parish apprentices.

And all assignments of such poor apprentices, provided there shall be no such valuable consideration as aforesaid given to the new master or mistress, other than what may have been or shall be given by any parish or township, or by any public charity.

ARTICLES of CLERKSHIP, or contract, whereby any person shall first become bound to serve as a clerk, in order to his admission as an attorney or solicitor,

In any of his majesty's courts at Westminster . . . 120 0 0

In any of the courts of the great sessions in Wales, or of the counties Palatine of Chester, Lancaster, and Durham; or in any other court of record in England, holding pleas, where the debt or damage amounts to 40s. . . 60 0 0

And for any counterpart or duplicate of any such articles or contracts of clerkship . . . 1 15 0

ARTICLES of CLERKSHIP, or contract, whereby any person (*not being an attorney of one of the courts at Westminster*) shall first become bound to serve as a clerk, in order to his admission as a sworn clerk, in the office of the six clerks of the Court of Chancery, or as a sworn clerk, clerk in court, or side clerk, in the office of pleas, or the office of his majesty's remembrancer in the Court of Exchequer, in England . . . 120 0 0

And for any counterpart or duplicate thereof . . . 1 15 0

ARTICLES of CLERKSHIP, or contract, whereby any person shall become bound to serve as a clerk, in order to any such admission as aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated by consent, or by rule of court, or in any other event . . . 1 15 0

And for any counterpart or duplicate thereof . . . 1 15 0

And where any person, having entered into any articles of clerkship or contract, duly stamped according to the law in force at the date thereof, in order to his admission as a sworn clerk, clerk in court, or side clerk, in the Court of Chancery, or Court of Exchequer, or in order to his admission as an attorney or solicitor in any of the courts at Westminster, shall afterwards enter into any such articles or contract as aforesaid, for any other of those purposes, the said last-mentioned articles or contract shall be charged only with a duty of . . . 1 15 0

ARTICLES of CLERKSHIP—(Continued.)

£ s. d.

And the counterpart or duplicate thereof	1	15	0
And where the same articles of clerkship shall be a qualification to any person to be admitted, not only as an attorney or solicitor in any of the courts at Westminster, but also as a sworn clerk, clerk in court, or side clerk, in the Court of Chancery or Court of Exchequer, or as an attorney or solicitor in any of the inferior courts aforesaid; such articles shall not be charged with more than one duty of 120l.			
ARTICLES of CLERKSHIP, or contract, whereby any person shall first become bound to serve as a clerk, in order to his admission as a proctor in the High Court of Admiralty in England, or in any of the ecclesiastical courts in Doctors' Commons	120	0	0
And for any counterpart or duplicate thereof	1	15	0
ARTICLES of CLERKSHIP, or contract, whereby any person shall become bound to serve as a clerk, in order to his admission as a proctor in any of the courts aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or the contract between them being vacated, or in any other event	1	15	0
And for any counterpart or duplicate thereof	1	15	0
ARTICLES, or indenture of clerkship or apprenticeship, whereby any person shall first become bound to serve as a clerk or apprentice in order to his admission as a writer to the signet, or as a solicitor, agent, or attorney, in any of the courts of session, justiciary, exchequer, and commission of teinds in Scotland	60	0	0
And for any counterpart or duplicate thereof	1	15	0
ARTICLES or indenture of clerkship or apprenticeship, whereby any person shall first become bound to serve as a clerk or apprentice, in order to his admission to act as a procurator or solicitor in the High Court of Admiralty, the Commissary Court at Edinburgh, or any other inferior court in Scotland	30	0	0
And for any counterpart or duplicate thereof	1	15	0
ARTICLES, or indenture of clerkship or apprenticeship, whereby any person shall become bound to serve as a clerk or apprentice, in order to any such admission in Scotland as aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated, or in any other event	1	15	0
And for any counterpart or duplicate thereof	1	15	0
ARTICLES of CLERKSHIP, or contract or indenture of apprenticeship, whereby any person, having been before bound to serve as a clerk or apprentice, in order to any such admission as aforesaid, either in England or Scotland, and not having completed or perfected his service so as to entitle him to such admission, shall become bound afresh, for a new term of years, for the same purpose	The same duty as would be payable on any original articles, contract, or indenture, for such purpose.		
And for any counterpart or duplicate thereof			
But in this case, the stamp used on the articles, contract, or indenture, first entered into for the said purpose, shall be allowed as a spoiled stamp, on being delivered up to the commissioners of stamps to be cancelled, within six calendar months after the execution of the new articles, contract, or indenture.			
ASSIGNATION or assignment, upon the sale of any property.—See Conveyance.			
ASSIGNATION in security.—See Mortgage.			
ASSIGNATION of any wadset, heritable bond, &c.—See Mortgage.			
ASSIGNMENT of any mortgage, or other similar security.—See Mortgage.			
ASSIGNATION or ASSIGNMENT of any property, real or personal, heritable or moveable, not otherwise charged in this schedule, nor expressly exempted from all stamp duty	1	5	0
And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of	1	5	0

£ s. d. 55 Geo. 3. c. 184.

AWARD in England, and award or decreet-arbitral in Scotland (a).	1	15	0
And where the same, together with any schedule, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of	1	5	0
BARGAIN and SALE (or lease) for a year, for vesting the possession of lands or other hereditaments in England, and enabling the bargainee to take a release of the freehold or inheritance, upon the sale or mortgage thereof:			
Where the purchase or consideration money expressed in the release shall not amount to 20 <i>l</i> .	0	10	0
And where the same shall amount to 20 <i>l</i> . and not amount to 50 <i>l</i> .	0	15	0
And where the same shall amount to 50 <i>l</i> . and not amount to 150 <i>l</i> .	1	0	0
And where the same shall amount to 150 <i>l</i> . or upwards	1	15	0
BARGAIN and SALE (or lease) for a year, upon any other occasion	1	15	0
BARGAIN and SALE (to be enrolled) of any estate of freehold, in lands or other hereditaments in England, upon the sale thereof, or by way of mortgage.—See <i>Conveyance—Mortgage</i> .			
BARGAIN and SALE (to be enrolled) of any estate of freehold, in lands or other hereditaments in England, upon any other occasion than the mortgage or sale thereof	5	0	0
And where any such bargain and sale as aforesaid, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of	1	5	0

Exemptions from the preceding Duty.

Bargains and sales, made by commissioners to the assignees of bankrupts, which are to pay a duty, only as deeds in general.

Inland BILL of EXCHANGE, draft, or order, to the bearer, or to order, either on demand or otherwise, not exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40 <i>s</i> . and not exceeding 5 <i>l</i> . 5 <i>s</i> .	1	0	0
Exceeding 5 <i>l</i> . 5 <i>s</i> . and not exceeding 20 <i>l</i> .	0	1	6
Exceeding 20 <i>l</i> . and not exceeding 30 <i>l</i> .	0	2	0
Exceeding 30 <i>l</i> . and not exceeding 50 <i>l</i> .	0	2	6
Exceeding 50 <i>l</i> . and not exceeding 100 <i>l</i> .	0	3	6
Exceeding 100 <i>l</i> . and not exceeding 200 <i>l</i> .	0	4	6
Exceeding 200 <i>l</i> . and not exceeding 300 <i>l</i> .	0	5	0
Exceeding 300 <i>l</i> . and not exceeding 500 <i>l</i> .	0	6	0
Exceeding 500 <i>l</i> . and not exceeding 1000 <i>l</i> .	0	8	6
Exceeding 1000 <i>l</i> . and not exceeding 2000 <i>l</i> .	0	12	6
Exceeding 2000 <i>l</i> . and not exceeding 3000 <i>l</i> .	0	15	0
Exceeding 3000 <i>l</i> .	1	5	0

Inland BILL of EXCHANGE, draft, or order, for the payment to the bearer, or to order, at any time exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40 <i>s</i> . and not exceeding 5 <i>l</i> . 5 <i>s</i> .	0	1	6
Exceeding 5 <i>l</i> . 5 <i>s</i> . and not exceeding 20 <i>l</i> .	0	2	0
Exceeding 20 <i>l</i> . and not exceeding 30 <i>l</i> .	0	2	6
Exceeding 30 <i>l</i> . and not exceeding 50 <i>l</i> .	0	3	6
Exceeding 50 <i>l</i> . and not exceeding 100 <i>l</i> .	0	4	6
Exceeding 100 <i>l</i> . and not exceeding 200 <i>l</i> .	0	5	0
Exceeding 200 <i>l</i> . and not exceeding 300 <i>l</i> .	0	6	0
Exceeding 300 <i>l</i> . and not exceeding 500 <i>l</i> .	0	8	6
Exceeding 500 <i>l</i> . and not exceeding 1000 <i>l</i> .	0	12	6
Exceeding 1000 <i>l</i> . and not exceeding 2000 <i>l</i> .	0	15	0
Exceeding 2000 <i>l</i> . and not exceeding 3000 <i>l</i> .	1	5	0
Exceeding 3000 <i>l</i> .	1	10	0

Inland BILL, draft, or order for the payment of any sum of money, though not made payable to the bearer, or to order, if the same shall be delivered to the payee, or some person on his or her behalf } *The same duty as on a bill of exchange, for the like sum payable to bearer or order.*

55 Geo. 3, c. 184.

Inland BILL, draft, or order for the payment of any sum of money weekly, monthly, or at any other stated periods, if made payable to the bearer or to order, or if delivered to the payee, or some person on his or her behalf, where the total amount thereby made payable shall be specified therein, or can be ascertained therefrom

The same duty as on bill payable to bearer or order, on demand, for a sum equal to such total amount.

And where the total amount of the money thereby made payable, shall be indefinite

The same duty as on a bill, on demand, for the sum therein expressed only.

And the following instruments shall be deemed and taken to be inland bills, drafts, or orders for the payment of money, within the intent and meaning of this schedule; *videlicet*—

All drafts or orders for the payment of any sum of money by a bill or promissory note, or for the delivery of any such bill or note in payment or satisfaction of any sum of money; where such drafts or orders shall require the payment or delivery to be made to the bearer, or to order, or shall be delivered to the payee, or some person on his or her behalf.

All receipts given by any banker or bankers, or other person or persons, for money received, which shall entitle, or be intended to entitle, the person or persons paying the money, or the bearer of such receipts, to receive the like sum from any third person or persons.

And all bills, drafts, or orders, for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, if the same shall be made payable to the bearer, or to order, or if the same shall be delivered to the payee, or some person on his or her behalf.

Foreign BILL of EXCHANGE (or bill of exchange) drawn in, but payable out of Great Britain), if drawn singly, and not in a set

The same duty as on an inland bill of the same amount and tenor.

Foreign BILLS of EXCHANGE, drawn in sets, according to the custom of merchants, for every bill of each set, where the sum made payable thereby shall not exceed 100*l*.

And where it shall exceed 100*l*. and not exceed 200*l*. 0 1 6

And where it shall exceed 200*l*. and not exceed 500*l*. 0 3 0

And where it shall exceed 500*l*. and not exceed 1000*l*. 0 4 0

And where it shall exceed 1000*l*. and not exceed 2000*l*. 0 5 0

And where it shall exceed 2000*l*. and not exceed 3000*l*. 0 7 6

And where it shall exceed 3000*l*. and not exceed 3000*l*. 0 10 0

And where it shall exceed 3000*l*. 0 15 0

Exemptions from the preceding and all other Stamp Duties.

All bills of exchange, or bank post bills, issued by the Governor and Company of the Bank of England.

All bills, orders, remittance-bills, and remittance-certificates, drawn by commissioned officers, masters, and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the act passed in the thirty-fifth year of his majesty's reign, for the more expeditious payment of the wages and pay of certain officers belonging to the navy.

All bills drawn pursuant to any former act or acts of Parliament by the commissioners of the navy, or by the commissioners for victualling the navy, or by the commissioners for managing the transport service, and for taking care of sick and wounded seamen, upon and payable by the treasurer of the navy.

All drafts or orders for the payment of any sum of money to the bearer on demand, and drawn upon any banker or bankers, or any person or persons acting as a banker, or who shall reside or transact the business of a banker, within ten miles of the place where such drafts or orders shall be issued, provided such place shall be specified in such drafts or orders; and provided the same shall bear date on or before the day on which the same shall be issued; and provided the same do not direct the payment to be made by bills or promissory notes.

All bills, for the pay and allowances of his majesty's land forces, or for other expenditures liable to be charged in the public regimental or district accounts, which shall be drawn according to the forms now prescribed, or hereafter to be prescribed, by his majesty's orders, by the paymasters of regiments or corps, or by the chief paymaster, or deputy paymaster, and accountant of the army dépôt, or by the paymasters of detachments, or by the officer or officers authorized to perform the duties of the paymastership during a vacancy, or the absence, suspension, or incapacity of any such paymaster as aforesaid; save and except such bills as shall be drawn in favour of contractors or others, who furnish bread or forage to his majesty's troops, and who, by their contracts or agreements, shall be liable to pay the stamp duties on the bills given in payment for the articles supplied by them.

BILL of LADING, of or for any goods, merchandize, or effects, to be exported or carried coastwise 0 3 0

BILL of SALE absolute. See *Conveyance*.

BILL of SALE as a security. See *Mortgage*.

BOND in England and personal bond in Scotland, given as a security for the payment of any definitively and certain sum of money,

Not exceeding 50 <i>l</i> .	1	0	0	† <i>5<i>l</i> in act.</i>
Exceeding 50 <i>l</i> . and not exceeding 100 <i>l</i> .	1	10	0	
Exceeding 100 <i>l</i> . and not exceeding 200 <i>l</i> .	2	0	0	
Exceeding 200 <i>l</i> . and not exceeding 300 <i>l</i> .	3	0	0	
Exceeding 300 <i>l</i> . and not exceeding 500 <i>l</i> .	4	0	0	
Exceeding 500 <i>l</i> . and not exceeding 1000 <i>l</i> .	5	0	0	
Exceeding 1000 <i>l</i> . and not exceeding 2000 <i>l</i> .	6	0	0	
Exceeding 2000 <i>l</i> . and not exceeding 3000 <i>l</i> .	7	0	0	
Exceeding 3000 <i>l</i> . and not exceeding 4000 <i>l</i> .	8	0	0	
Exceeding 4000 <i>l</i> . and not exceeding 5000 <i>l</i> .	9	0	0	
Exceeding 5000 <i>l</i> . and not exceeding 10,000 <i>l</i> .	12	0	0	
Exceeding 10,000 <i>l</i> . and not exceeding 15,000 <i>l</i> .	15	0	0	
Exceeding 15,000 <i>l</i> . and not exceeding 20,000 <i>l</i> .	20	0	0	
Exceeding 20,000 <i>l</i> .	25	0	0	

BOND in England and personal bond in Scotland, given as a security for the re-payment of any sum or sums of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be,

Where the total amount of the money secured, or to be ultimately recoverable thereupon, shall be uncertain and without any limit 25 0 0

And where the money secured, or to be ultimately recoverable thereupon, shall be limited not to exceed a given sum } The same duty as on a bond for such limited sum.

BOND in England, and personal bond in Scotland, given as a security for the transfer, or re-transfer, of any share in any of the Government or Parliamentary stocks or funds, or in the stock and funds of the Governor and Company of the Bank of England, or the East India Company, or of the South Sea Company } The same duty as on a bond for a sum of money equal to the value of the stock or fund secured, according to the average price thereof, on the day of the date of the bond, or on either of the ten days preceding.

Heritable BOND in Scotland for any of the purposes aforesaid. See *Mortgage*.

BOND in England, and personal bond in Scotland, given as a security for the payment of any sum of money, or for the transfer or re-transfer of any share in any of the stocks or funds before mentioned, which shall be in part secured by a mortgage or wadset, or other instrument or writing hereinafter charged with the same duty as a mortgage or wadset, bearing even date with such bond, or for the performance of covenants contained in such mortgage, or other instrument or writing; or for both those purposes 1 0 0

Stamps.

£ s. d.

BOND in England; and personal or heritable bond in Scotland, given as the only or principal security for the payment of any annuity, upon the original creation and sale thereof. See *Conveyance upon the Sale of Lands, &c.*

BOND in England, and personal bond in Scotland, given as a collateral or auxiliary security for the payment of any annuity, upon the original creation and sale thereof, where the same shall be granted or conveyed, or secured, by any other deed or instrument, liable to and charged with the *ad valorem* duty hereinafter imposed on conveyances upon the sale of any property

BOND in England, and personal or heritable bond in Scotland, given as a security for the payment of any annuity (except upon the original creation and sale thereof), or any sum or sums of money at stated periods (not being interest for any principal sum, nor rent reserved or payable upon any lease or tack), for any definite and certain term, so that the total amount of the money to be paid can be previously ascertained	}	<i>The same duty as on a bond of the like nature for the payment of a sum of money equal to such total amount.</i>	1 0 0
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BOND in England, and personal and heritable bond in Scotland, given as a security for the payment of any annuity (except as aforesaid), or of any sum or sums of money at stated periods (not being interest for any principal sum, nor rent reserved or payable upon any lease or tack), for the term of life, or any other indefinite period, so that the whole money to be paid cannot be previously ascertained,

Where the annuity, or sum secured, shall not amount to 10*l.* per annum

1 0 0

And where the same shall amount to 10*l.* and not amount to 50*l.* per annum

2 0 0

And where the same shall amount to 50*l.* and not amount to 100*l.* per annum

3 0 0

And where the same shall amount to 100*l.* and not amount to 200*l.* per annum

4 0 0

And where the same shall amount to 200*l.* and not amount to 300*l.* per annum

5 0 0

And where the same shall amount to 300*l.* and not amount to 400*l.* per annum

6 0 0

And where the same shall amount to 400*l.* and not amount to 500*l.* per annum

7 0 0

And where the same shall amount to 500*l.* and not amount to 750*l.* per annum

9 0 0

And where the same shall amount to 750*l.* and not amount to 1000*l.* per annum

12 0 0

And where the same shall amount to 1000*l.* and not amount to 1500*l.* per annum

15 0 0

And where the same shall amount to 1500*l.* and not amount to 2000*l.* per annum

20 0 0

And where the same shall amount to 2000*l.* per annum or upwards

25 0 0

But where there shall be both a personal and heritable bond in Scotland, in separate deeds of the same date, for securing any such annuity, or sums payable at stated periods, and the *ad valorem* duty above charged thereon shall amount to 2*l.* or upwards, the heritable bond only shall be charged with the *ad valorem* duty, and the personal bond shall be charged only with the duty of

1 0 0

BOND, commonly called counter-bond in England, and personal bond of relief in Scotland, for indemnifying any person who shall have become bound or engaged as surety or cautioner for the payment of any sum of money or annuity, or for the transfer of any share in any of the stocks or funds before mentioned

1 15 0

BOND in England, and personal bond in Scotland, for the due execution of an office, and to account for money received by virtue thereof

1 15 0

BOND given pursuant to the directions of any act of Parliament, or

BOND—(Continued.)

£ s. d. 36 Geo. 3, c. 184.

by the direction of the commissioners of customs or excise, or any of their officers, for or in respect of any of the duties of customs or excise, or for preventing frauds or evasions thereof, or for any other matter or thing relating thereto	1	0	0
BOND, entered into by any person, on obtaining a marriage license	1	0	0
BOND, on obtaining letters of administration in England, or a confirmation of testament in Scotland	1	0	0
BOND, accompanied with a deposit of title-deeds, for making a mortgage, wadset, or other security, or any estate or property therein comprised. See <i>Mortgage</i> .			
Back BOND, declaration, or other deed in writing, for making redeemable any disposition, assignation, or tack, apparently absolute, but intended only as a security. See <i>Mortgage</i> .			
BOND in England, and personal bond in Scotland, of any kind whatever, not otherwise charged in this schedule, nor expressly exempted from all stamp duty	1	15	0
Heritable BOND in Scotland, of any kind whatever, not otherwise charged in this schedule, nor expressly exempted from all stamp duty	1	15	0

General Directions respecting Bonds.

- Where any such bond as aforesaid, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, there shall be charged for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of 1 5 0
- And where any such bond as aforesaid shall be given as a security for the payment of a sum of money, and also of a share in any of the stocks or funds before mentioned, on an annuity, or both, or for the payment of an annuity, and also of a share in any of the said stocks or funds, the proper *ad valorem* duty shall be charged in respect of each.
- And where any such bond as aforesaid shall be given as a security for the payment or transfer to different persons, of separate and distinct sums of money, or annuities or shares in any of the stocks or funds before mentioned, the proper *ad valorem* duty shall be charged in respect of each separate and distinct sum of money, or annuity or share in any of the said stocks or funds therein specified and secured, and not upon the aggregate amount thereof.
- And where any bond in England shall be given as a security for the performance of any covenant or agreement for the payment or transfer of any sum of money, or annuity, or any share in any of the stocks or funds before mentioned, such bond shall be charged with the same duty as if the same had been immediately given for the payment or transfer of such money, or annuity, or share of the said stocks or funds.
- And where in England any bond for the payment or transfer, or for the performance of any covenant for the payment or transfer of any sum of money or annuity, or any share in any of the stocks or funds before mentioned, shall be contained in one and the same deed or writing, with any other matter or thing, in this schedule specifically charged with any duty (except any declaration of trust of the money, annuity, stock, or fund secured), such deed or writing shall be charged with the same duties as such bond and other matter or thing would have been charged with, if contained in separate deeds.
- But where, in England, a bond for the performance of covenants or agreements (other than for the payment or transfer of any sum of money, or annuity, or any share in any of the said stocks or funds), shall be contained in the same deed or writing, with any other matter or thing, the same shall not be charged separately, but the whole shall be considered as one deed, and be charged accordingly, under its proper denomination.

Exemptions from the preceding and all other Stamp Duties.

Bonds of the Royal Exchange and London Assurance Corporations, exempted from stamp duty by the act of the sixth year of the reign of King George the First, under which they were incorporated.

Bonds and other securities, exempted from stamp duty by the act of the twenty-sixth year of his present majesty's reign, or any other act now in force for the encouragement of the British fisheries.

Bonds, exempted from stamp duty by the act of the twenty-eighth year of his present majesty's reign, or any other act now in force, relating to the exportation of wool, or any manufacture thereof, or fuller's earth, fulling clay, or tobacco-pipe clay; or by the act of the twenty-ninth year of his majesty's reign, or any other act now in force, relating to the exportation of tobacco from his majesty's warehouses.

Coast bonds, or bonds relative to the carrying of goods or merchandise coastwise, whether the same shall be given pursuant to the act of the thirty-second year of his majesty's reign, or any other act now in force, for the relief of the coast trade of Great Britain, or pursuant to the directions of any proclamation or order in council, by his majesty, his heirs, or successors.

Bonds and other securities, exempted from stamp duty by the act of the thirty-third year of his majesty's reign, or any other act now in force, for the encouragement of friendly societies.

Bonds given by card-makers for securing the stamp duties on playing cards.

Bonds given by the proprietors, printers, or publishers of newspapers, for securing the payment of the duties upon the advertisements therein contained.

Bonds given by stationers and others, who sell stamped paper for the printing of newspapers, for the due performance of the matters required of them by the act passed in the thirty-eighth year of his majesty's reign, for regulating the printing and publication of newspapers.

Bonds given by collectors of assessed taxes and their sureties, for the due payment of monies collected by them, or otherwise relating to their offices.

Administration and confirmation bonds, given by the widow, child, father, mother, brother, or sister of any common seaman, marine, or soldier, who shall be slain or die in the service of his majesty, his heirs, or successors.

Administration bond in England given by any person, where the estate to be administered shall not exceed 20*l.* in value.

Confirmation bond in Scotland, where the whole personal estate of the deceased shall not exceed 20*l.* in value.

See also the general exemptions at the end of this part of the schedule.

CERTIFICATE to be taken out *yearly*, by every person admitted as an *attorney or solicitor* in any of his majesty's courts at Westminster, or in any of the courts of the great sessions in Wales, or of the counties palatine of Chester, Lancaster, and Durham, or in any other court in England, holding pleas, where the debt or damage amounts to 40*s.*; and by every person admitted as a proctor in any of the ecclesiastical or admiralty courts in England; and by every person admitted as a writer to the signet, or as a solicitor, agent, attorney, or procurator, in any of the courts in Scotland; and by every person admitted or enrolled as a notary public in England or Scotland; and also by every sworn clerk, clerk in court, and other clerk or officer in any of the courts aforesaid, who, in his own name, or in the name of any other person, shall commence, prosecute, carry on, or defend any action, suit, prosecution, or other proceeding, in any of the courts aforesaid, or do any notarial act whatever, for or in expectation of any fee, gain, or reward, as an

CERTIFICATE—(Continued.)

£ s. d. 35 Geo. 2, c. 104.

attorney, solicitor, agent, proctor, procurator, or notary public, although not admitted or enrolled as such.

If he shall reside in the city of London, or city of Westminster, or within the limits of the two-penny posts in England, or within the city or shire of Edinburgh,

And if he shall have been admitted, or been in possession of his office, for the space of three years or upwards . . . 12 0 0

Or if he shall not have been admitted, or been in possession so long . . . 6 0 0

If he shall reside elsewhere,

And if he shall have been admitted, or been in possession of his office, for the space of three years or upwards . . . 8 0 0

Or if he shall not have been admitted, or been in possession so long . . . 4 0 0

But no one person is to be obliged to take out more than one certificate, although he may act in more than one of the capacities aforesaid, or in several of the courts aforesaid.

Exemptions.

All clerks and officers of any of the courts aforesaid, who shall act or be concerned in the conduct or management of any action, suit, prosecution, or other proceeding, by virtue and in the execution of their respective offices or appointments only, and shall not be also retained or employed by any party to such action, suit, prosecution, or other proceeding, or by any attorney, solicitor, agent, proctor, or procurator, on behalf of any party thereto, for or in expectation of any fee or reward, other than the established fees due and payable in respect of their offices and appointments.



CERTIFICATE to be taken out yearly, by every person, being a member of one of the four inns of court in England, who, in the character of conveyancer, special pleader, draftman in equity, or otherwise, shall, for or in expectation of any fee, gain, or reward, draw or prepare any conveyance of, or deed or instrument relating to, any estate or property, real or personal, or any other deed or contract whatever, or any pleadings or proceedings in any court of law or equity.

If he shall reside in the city of London, or city of Westminster, or within the limits of the two-penny post in England . . . 12 0 0

And if he shall reside elsewhere . . . 8 0 0

Exemptions.

Sergeants at law, and barristers.

Attorneys, solicitors, proctors, and notaries public, and other persons acting as such by virtue of any office or appointment, who shall respectively take out certificates in those characters.

Public officers, drawing or preparing deeds or other instruments, by virtue of their offices, and in the course of their official duty only, and not otherwise.

CERTIFICATE of admission to degrees in the universities. See

Testimonial.

CERTIFICATE of marriage, except of any common seaman, marine, or soldier . . . 0 5 0

CERTIFICATE of any person's having received the holy sacrament . . . 0 5 0

CERTIFICATE of any goods, wares, or merchandise, having been duly entered inwards, which shall be entered outwards for exportation at the port of importation, or be removed from thence to any other port, for the more convenient exportation thereof from Great Britain; where such certificate shall be issued for enabling any person to obtain a debenture or certificate, entitling him to receive any drawback of any duty or duties of customs, or any part thereof . . . 0 4 0

See also *Debenture*.

CHARTER of resignation, or of confirmation, or of *novodamus*, or upon apprising, or upon a decret of adjudication or sale of any

	£	s.	d.
lands, or other heritable subjects in Scotland, holden of any subject superior	0	9	0
And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of .	0	9	0
CHARTER-PARTY, or any agreement or contract for the charter of any ship or vessel, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects, on board of such ship or vessel	1	15	0
And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of .	1	5	0
CLERKSHIP, articles of contract of. See <i>Apprenticeship—Articles</i> .			
COLLATION by any archbishop or bishop to any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of 10l. or upwards in the king's books	20	0	0
COLLATION by any archbishop or bishop to any other ecclesiastical benefice, dignity, or promotion whatsoever in England	10	0	0
COLLATION, institution or admission, by any presbytery or other competent authority, to any ecclesiastical benefice in Scotland	3	0	0
COMMISSION granted by his majesty, his heirs or successors, or by any person or persons duly authorized by him or them, to any officer in the army, or in the corps of royal marines	10	0	0
<i>Exemptions from the preceding and all other Stamp Duties.</i>			
Commissions granted to officers of yeomanry cavalry, or volunteer infantry, and to officers of the local militia.			
COMMISSION granted by the lord high admiral, or the commissioners for executing the office of lord high admiral of the United Kingdom, to any officer in the navy	5	0	0
COMMISSION, or deputation, granted by the commissioners of excise	1	10	0
COMMISSION, appointing any person receiver-general of the land and other taxes, for any county or district in Great Britain	25	0	0
COMMISSION, appointing any manager or director, managers or directors, of or concerning any lottery or lotteries to be drawn pursuant to act of Parliament	20	0	0
COMMISSION to act as a notary public in Scotland. See <i>Faculty</i> .			
COMMISSION, in the nature of a power of attorney in Scotland. See <i>Letter of Attorney</i> .			
COMPOSITION, deed, or other instrument of composition between a debtor or debtors, and his, her, or their creditors	1	15	0
And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of .	1	5	0
CONDITIONAL surrender of any copyhold or customary estate by way of mortgage. See <i>Mortgage</i> .			
CONSTAT of letters patent. See <i>Exemplification</i> .			
CONTRACT of excambion in Scotland. See <i>Exchange</i> .			
CONVEYANCE, (a) whether grant, disposition, lease, assignment, transfer, release, renunciation, or of any other kind or description whatsoever, upon the sale of any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest, or claim in, to, out of, or upon any lands, tenements, rents, annuities, or other property; that is to say, for and in respect of the principal or only deed, instrument, or writing, whereby the lands or other things sold shall be granted, leased, assigned, transferred, released, renounced, or otherwise conveyed to, or			

(n) See the cases collected in 1 *Chit. Col. Stat.* 980.

CONVEYANCE—(Continued.)

£ s. d. 33 Geo. 2. c. 194.

vested in the purchaser or purchasers, or any other person or persons, by his, her, or their direction,

Where the purchase or consideration money therein or thereupon expressed shall not amount to 5*l*.

0 10 0

And where the same shall amount to 5*l*. and not amount to 5*l*.

1 0 0

And where the same shall amount to 5*l*. and not amount to 15*l*.

1 10 0

And where the same shall amount to 15*l*. and not amount to 30*l*.

2 0 0

And where the same shall amount to 30*l*. and not amount to 50*l*.

3 0 0

And where the same shall amount to 50*l*. and not amount to 75*l*.

6 0 0

And where the same shall amount to 75*l*. and not amount to 100*l*.

9 0 0

And where the same shall amount to 100*l*. and not amount to 200*l*.

12 0 0

And where the same shall amount to 200*l*. and not amount to 300*l*.

25 0 0

And where the same shall amount to 300*l*. and not amount to 400*l*.

35 0 0

And where the same shall amount to 400*l*. and not amount to 500*l*.

45 0 0

And where the same shall amount to 500*l*. and not amount to 600*l*.

55 0 0

And where the same shall amount to 600*l*. and not amount to 700*l*.

65 0 0

And where the same shall amount to 700*l*. and not amount to 800*l*.

75 0 0

And where the same shall amount to 800*l*. and not amount to 900*l*.

85 0 0

And where the same shall amount to 900*l*. and not amount to 10,000*l*.

95 0 0

And where the same shall amount to 10,000*l*. and not amount to 12,500*l*.

110 0 0

And where the same shall amount to 12,500*l*. and not amount to 15,000*l*.

130 0 0

And where the same shall amount to 15,000*l*. and not amount to 20,000*l*.

170 0 0

And where the same shall amount to 20,000*l*. and not amount to 30,000*l*.

240 0 0

And where the same shall amount to 30,000*l*. and not amount to 40,000*l*.

350 0 0

And where the same shall amount to 40,000*l*. and not amount to 50,000*l*.

450 0 0

And where the same shall amount to 50,000*l*. and not amount to 60,000*l*.

550 0 0

And where the same shall amount to 60,000*l*. and not amount to 80,000*l*.

650 0 0

And where the same shall amount to 80,000*l*. and not amount to 100,000*l*.

800 0 0

And where the same shall amount to 100,000*l*. or upwards

1000 0 0

And where any freehold lands or hereditaments in England shall be conveyed by a deed of feoffment, with or without any letter or letters of attorney therein contained, to deliver or receive seisin, or by a deed of bargain and sale enrolled, such deed of feoffment or bargain and sale, unless accompanied with a lease and release, shall be charged with a further duty as follows:—

If the purchase or consideration money therein or thereupon expressed, shall be under 20*l*.

0 10 0

If it shall amount to 20*l*. and not amount to 50*l*.

0 15 0

If it shall amount to 50*l*. and not amount to 150*l*.

1 0 0

If it shall amount to 150*l*. or upwards

1 15 0

But if there shall be both a feoffment and a bargain and sale enrolled, then the said further duty shall not attach on either.

Note—The purchase or consideration money is to be truly expressed and set forth in words at length, in or upon every such principal or only deed or instrument of conveyance.

And where any lands or other property, of different tenures or holdings, or held under different titles, contracted to be sold at one entire price for the whole, shall be conveyed to the purchaser in separate parts or parcels, by different deeds or instruments, the purchase or consideration money shall be divided and apportioned in such manner as the parties shall think fit, so that a distinct price or consideration for each separate part or parcel may be set forth in or upon the principal or only deed or instrument of conveyance relating thereto; which shall be charged with the said *ad valorem* duty in respect of the price or consideration money therein set forth.

And where any lands or other property, contracted to be purchased by two or more persons jointly, or by any person for himself and others, or wholly for others, at one entire price for the whole, shall be conveyed in parts or parcels, by separate deeds or instruments, to the persons for whom the same shall be purchased, for distinct parts or shares of the purchase money; the principal or only deed or instrument of conveyance, of each separate part or parcel, shall be charged with the said *ad valorem* duty, in respect of the sum of money therein specified as the consideration for the same.

But if separate parts or parcels of such lands or other property shall be conveyed to, or to the use of, or in trust for different persons, in and by one and the same deed or instrument, then such deed or instrument shall be charged with the said *ad valorem* duty, in respect of the aggregate amount of the purchase or consideration moneys therein mentioned to be paid or agreed to be paid, for the lands or property thereby conveyed.

And where any person, having contracted for the purchase of any lands or other property, but not having obtained a conveyance thereof, shall contract to sell to any other person, and the same shall in consequence be conveyed immediately to the sub-purchaser, the principal or only deed or instrument of conveyance shall be charged with the said *ad valorem* duty, in respect of the purchase or consideration money therein mentioned to be paid, or agreed to be paid by the sub-purchaser.

And where any person, having contracted for the purchase of any lands or other property, but not having obtained a conveyance thereof, shall contract to sell the whole or any part or parts thereof, to any other person or persons, and the same shall in consequence be conveyed, by the original seller, to different persons, in parts or parcels; the principal or only deed or instrument of conveyance, of each part or parcel thereof, shall be charged with the said *ad valorem* duty, in respect only of the purchase or consideration money which shall be therein mentioned to be paid or agreed to be paid for the same, by the person or persons to whom or to whose use or in trust for whom the conveyance shall be made, without regard to the amount of the original purchase-money.

And in all cases of such sub-sales as aforesaid, the sub-purchasers, and the persons immediately selling to them, shall be deemed and taken to be the purchasers and sellers, within the intent and meaning of the provisions and regulations of the aforesaid act of the forty-eighth year of his majesty's reign, relating to the *ad valorem* duties on conveyances on the sale of property thereby imposed, and which are to be observed and enforced with regard to the said *ad valorem* duties hereby granted.

But where any sub-purchaser shall take an actual conveyance of the interest of the person immediately selling to him, which shall be chargeable with the said *ad valorem* duty in respect of

CONVEYANCE—(Continued.)

£ s. d. 55 Geo. 3, c. 184.

- the purchase or consideration money paid or agreed to be paid by him, and shall be duly stamped accordingly; any deed or instrument of conveyance to be afterwards made to him, of the property in question, by the original seller, shall be exempted from the said *ad valorem* duty, and be charged only with the ordinary duty on deeds or instruments of the same kind not upon a sale.
- And where any lands or other property, separately contracted to be purchased of different persons, at separate and distinct prices; shall be conveyed to the purchaser, or as he shall direct, in and by one and the same deed or instrument; such deed or instrument shall be charged with the said *ad valorem* duty, in respect of the aggregate amount of the purchase or consideration moneys therein mentioned to be paid or agreed to be paid for the same.
- And where any lands, or other property, shall be sold and conveyed, in consideration, wholly or in part, of any sum of money charged thereon by way of mortgage, wadset, or otherwise, and then due and owing to the purchaser, or shall be sold and conveyed, subject to any mortgage, wadset, bond, or other debt, or to any gross or entire sum of money, to be afterwards paid by the purchaser, such sum of money or debt shall be deemed the purchase or consideration money, or part of the purchase or consideration money, as the case may be, in respect whereof the said *ad valorem* duty is to be paid.
- And to prevent doubts, respecting what shall be deemed the principal deed or instrument of conveyance, in certain cases, it is hereby declared:
- That where any lands or hereditaments, in England, shall be conveyed by bargain and sale enrolled, and also by lease and release, or feoffment, with or without any such letter or letters of attorney therein contained as aforesaid, the release or feoffment shall be deemed the principal deed; and the bargain and sale shall be charged only with the duty hereby imposed on deeds in general. (See *Deed*.) But the same shall not be enrolled or be available, unless also stamped for testifying the payment of the *ad valorem* duty on the release or feoffment.
- And where any lands or hereditaments shall be conveyed by lease and release, and also by feoffment, with or without any such letter or letters of attorney therein contained as aforesaid, the release shall be deemed the principal deed; and the feoffment shall be charged only with the duty hereby imposed on deeds in general. (See *Deed*.) But the same shall not be available, unless also stamped for testifying the payment of the *ad valorem* duty on the release.
- And where any copyhold or customary estate shall be conveyed, by a deed of bargain and sale, by the commissioners named in a commission of bankrupt, or by executors or others, by virtue of a power given by will, or by act of Parliament, or otherwise, where a surrender shall not be necessary, the deed of bargain and sale shall be deemed a principal instrument.
- And in other cases of copyhold or customary estates, the surrender or voluntary grant, or the memorandum thereof respectively, if made out of court, or the copy of court roll of the surrender or voluntary grant, if made in court, shall be deemed the principal instrument.
- And copies of court roll, made after the 31st day of August, 1815, of surrenders and voluntary grants made in court before or upon that day, and subsequent to the 10th day of October, 1808, shall be charged with the said *ad valorem* duties. But copies of court roll, of surrenders and voluntary grants made before or upon the 10th day of October, 1808, shall not be liable thereto.
- And grants, and copies of court roll of grants, of copyhold or

customary estates for a life or lives, are to be charged, as well as those for any greater interest.

And where in Scotland there shall be a disposition or assignment, executed by the seller, and any other instrument or instruments, writing or writings, to complete the title, the disposition or assignment shall be deemed the principal instrument.

And where, upon the sale of any annuity or other right, not before in existence, the same shall not be created by actual grant or conveyance, but shall only be secured by bond, warrant of attorney, covenant, contract, or otherwise; the bond or other instrument, by which the same shall be secured, or some one of such instruments, if there be more than one, shall be deemed and taken to be liable to the same duty, as an actual grant or conveyance.

And in the case of leases or tacks, where a yearly rent of 20*l.* or upwards shall be reserved, as part of the consideration for the same, there shall be charged a further duty;—for which see title *Lease*.

And where the principal or only deed or instrument of conveyance, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of

1 0 0

And where there shall be several deeds, instruments, or writings, for completing the title to the property sold, such of them as are not liable to the said *ad valorem* duty shall be charged with the duty to which the same may be liable, under any general or particular description of such deeds, instruments, or writings contained in this schedule.

And where, in any case not hereby expressly provided for, of several deeds, instruments, or writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to pay the said *ad valorem* duty thereon accordingly; and, if necessary, the other deeds, instruments, or writings, on which the doubt shall have arisen, shall be stamped with the particular stamp for denoting or testifying the payment of the *ad valorem* duty; upon all the deeds or instruments being produced, and appearing to be duly stamped in other respects.

And where there shall be duplicates of any deed or instrument, chargeable with the said *ad valorem* duty exceeding 2*l.*, one of them only shall be charged therewith, and the other or others shall be charged with the ordinary duty on deeds or instruments of the same kind not upon a sale; and on the whole being produced, duly stamped as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said *ad valorem* duty.

And where any deed or instrument, operating as a conveyance on the sale of any property, shall operate also as a conveyance of any other than the property sold by way of settlement, or for any other purpose, or shall also contain any other matter or thing besides what shall be incident to the sale and conveyance of the property sold, or relate to the title thereto; every such deed or instrument shall be charged, in addition to the duty to which it shall be liable as a conveyance on the sale of property, and to any *progressive* duty to which it may also be liable, with such further stamp duty as any separate deed, containing the other matter, would have been chargeable with, exclusive of the *progressive* duty.

Exemptions from the preceding Duties on Conveyances upon the sale of Lands, &c.

All surrenders and other instruments, relating only to copyhold or customary estates, whose clear yearly value shall not exceed 20*s.*, but which are hereinafter otherwise charged.

CONVEYANCE—(Continued.)

2 s. d. 55 Geo. 3, c. 184.

All transfers of shares in the stock and funds of the governor and company of the Bank of England, and of the South Sea and East-India Companies, but which are hereinafter otherwise charged.

All leases and tacks in consideration of a fine or grassum, for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, by whomsoever granted.

All leases in consideration of a fine for a term absolute, not exceeding twenty-one years, granted by ecclesiastical corporations, aggregate or sole.

And all voluntary grants made by the lord or lady of any manor of any copyhold or customary lands or hereditaments for a life or lives for a pecuniary consideration, and the copies of court roll of such voluntary grants.

All which leases, tacks, grants, and copies, are hereinafter charged with ordinary duty.

Exemptions from the preceding and all other Stamp Duties, except the Duty on the receipt for the Consideration Money.

Conveyances of rents purchased under the act of the 34th year of his majesty's reign, c. 75, for the better management of the land revenue of the crown, and for the sale of fee farm and other unimprovable rents, upon subsequent sales thereof by the purchasers or their heirs or assigns to the owners of the lands or other hereditaments, out of which the same are payable; where the consideration money to be paid on such subsequent sales shall not exceed the sum of 10*l*.

Exemptions from the preceding and all other Stamp Duties.

All transfers of shares in any of the government or parliamentary stocks or funds.

For other exemptions, see the titles *Grant*, *Lease*, and at the end of this part of the schedule.

CONVEYANCE of lands and rents belonging to the crown.—See *Grant*.

CONVEYANCE of any estate or property, in trust for sale, which shall be intended only as a security for money or stock.—See *Mortgage*.

CONVEYANCE of the equity or right of redemption or reversion of lands or other property, to a purchaser, in the same deed with a mortgage, wadset, or other security made thereupon.—See *Mortgage*.

CONVEYANCE of any kind whatever, not otherwise charged in this schedule, nor expressly exempted from all stamp duty . . . 1 15 0

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of . . . 1 5 0

COPY, attested to be a true copy, in the form which hath been commonly used for that purpose, or in any other manner authenticated or declared to be a true copy, or made for the purpose of being given in evidence as a true copy, of any agreement, contract, bond, deed, or other instrument of conveyance, or any other deed whatever, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, or of any part thereof respectively,

Where such a copy shall be made for the security or use of any person, being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument } *The same duty or duties as for the original instrument.*

And where any such copy shall be made, for the security or use of any person *not* being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument . . . 0 1 0

55 Geo. 3, c. 184. COPY—(Continued.)

	£	s.	d.
And for every entire quantity of 720 words contained therein, over and above the first 720 words, a further <i>progressive</i> duty of	0	1	0
And all copies which shall at any time be offered in evidence, shall be deemed to have been made for that purpose.			
<i>Exemptions from the preceding and all other Stamp Duties.</i>			
All copies attested or authenticated as aforesaid, which shall be made for the private use only of any person having the custody of the original instruments, or of his or her counsel, attorney, or solicitor.			
COPY, attested or authenticated as aforesaid, or made for the purpose of being given in evidence as true copy of any original will, testament, or codicil; or of the probate or probate copy of any will or codicil; or of any letters of administration; or of any confirmation of a testament, testamentary or dative; or of any part thereof respectively	0	1	0
And for every entire quantity of 720 words contained in any such copy, over and above the first 720 words, a further <i>progressive</i> duty of	0	1	0
And all copies which shall at any time be offered in evidence, shall be deemed to have been made for that purpose.			
Office COPY, or extract of any will or codicil, deposited in any ecclesiastical court in England	0	1	0
And for every entire quantity of 90 words contained in any such copy or extract, over and above the first 90 words, a further <i>progressive</i> duty of	0	1	0
COPY or extract of any memorial, or of the register of any memorial, registered pursuant to any act of Parliament, made or to be made, for the public registering of deeds and conveyances in England	0	5	0
And for every piece of vellum, parchment, or paper, upon which any such copy or extract shall be written, after the first, a further <i>progressive</i> duty of	0	5	0
COPY or extract of any deed, or of any other instrument <i>not falling under the description of law proceedings</i> , which shall be made or taken from the rolls or records of any of his majesty's courts at Westminster	0	2	0
And for every piece of vellum, parchment, or paper, upon which any such copy or extract shall be written, after the first, a further <i>progressive</i> duty of	0	2	0
Attested COPY or extract of any deed, instrument, or writing, given out from any public register, or from the books or records of any court in Scotland, and <i>not otherwise charged under the head of law proceedings</i>	0	2	6
And where the same shall contain more than 600 words, then for every entire quantity of 600 words contained therein, over and above the first 600 words, a further <i>progressive</i> duty of	0	2	6
And for any less quantity of words contained therein, over and above the first 600 words, or over and above any second, third, or other full quantity of 600 words, a further <i>progressive</i> duty of	0	2	6
<i>Exemptions from the preceding and all other Stamp Duties.</i>			
Certified copies of proceedings and interlocutors required or authorized in cases of appeal to the House of Lords.			
Copies or extracts of protests, upon bills or promissory notes, for any sum under 40 <i>s.</i> sterling.			
Extracts or commissions of persons as delegates or representatives to the general assembly, or to any presbytery or church court, in Scotland; and of commissions of delegates to the convention of royal burghs; and of commissions of delegates from any royal burgh for the election of members of Parliament.			
COPYHOLD estates, and customary estates, passing by surrender and admittance, or by admittance only, and not by deed; instruments relating thereto, <i>not otherwise charged under the head of mortgage, or of conveyance upon the sale of lands; viz.</i>			
Any surrender made out of court, or the memorandum thereof, where the clear yearly value of the estate shall exceed 20 <i>s.</i>	1	0	0

COPYHOLD—(Continued.)

	£	s.	d.	55 Geo. 3, c. 184—
And where the same shall not exceed 20s.	0	5	0	
See also <i>Conveyance</i> upon Sale of Lands, &c. and <i>Mortgage</i> .				
Any admittance out of court, or the memorandum thereof; where the clear yearly value of the estate shall exceed 20s.	1	0	0	
And where the same shall not exceed 20s.	0	5	0	
And where both a surrender and admittance, or more than one surrender or admittance, or the memorandum thereof, shall be contained in the same piece of vellum, parchment, or paper, whether upon a sale, mortgage, or other occasion, the proper duty shall be paid, in respect to each surrender and each admittance.				
And where any surrender or admittance, or the memorandum thereof, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	0	0	
The copy of court roll of any surrender made in court, where the clear yearly value of the estate shall exceed 20s.	1	0	0	
And where the same shall not exceed 20s.	0	5	0	
See also <i>Conveyance</i> upon the Sale of Lands, &c., and <i>Mortgage</i> .				
The copy of court roll of any admittance in court, where the clear value of the estate shall exceed 20s.	1	0	0	
And where the same shall not exceed 20s.	0	5	0	
And where copies of both a surrender and admittance, or of more than one surrender or admittance, shall be contained in the same piece of vellum, parchment, or paper, whether upon a sale, mortgage, or other occasion, the proper duty shall be paid, in respect of each surrender and each admittance, except in the case of a recovery, hereinafter provided for.				
And where the copy of any such surrender or admittance, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	0	0	
The copy of court roll of the several surrenders, admittances, and other acts, which shall take place in court, for the purpose of perfecting a common recovery of any entailed copyhold or customary estate or estates, tenement or tenements, from the surrender to make a tenant of the præcipe, down to the admittance of the tenant in tail, in fee, or to the admittance for life of the former tenant for life, with remainder to the tenant in tail, in fee, upon the surrender of the demandant, both inclusive; or from the surrender to make a tenant to the præcipe, inclusive, to the admittance of the tenant in tail, or tenant for life, otherwise than as aforesaid, or to the admittance of any other person, upon the surrender of the demandant, exclusive; } Five times where the clear yearly value of the estate shall exceed 20s.	1	0	0	
And where the same shall not exceed 20s.	0	5	0	
And if the copy of court roll of any other admittance or surrender, admittances or surrenders, shall be contained in the same piece of vellum, parchment, or paper, with the copy of court roll of the several surrenders, admittances, and other acts, for the purpose aforesaid; the same shall be charged with such and the same duty or duties, as if the same had been written upon a separate piece of vellum, parchment, or paper, over and above the said duties hereby imposed on the copy of court roll of the recovery.				
Any voluntary grant by the lord or lady, or steward of any manor, made out of court, or the memorandum thereof, with or without admittance thereon; where the clear yearly value of the estate shall exceed 20s.	Twice	0	5	0

	£	s.	d..
And where the same shall not exceed 20s.	Twice	1	0 0
The copy of court roll of any voluntary grant made in court, by the lord or lady, or steward of any manor, with or without admittance thereon; where the clear yearly value of the estate shall exceed 20s.	Twice	1	0 0
And where the same shall not exceed 20s.	Twice	0	5 0
<i>See, also, Conveyances upon the Sale of Lands, &c., and Mortgage.</i>			
And where any voluntary grant, or the memorandum, or copy of court roll thereof, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of		1	0 0
Any license to demise, or the memorandum thereof, if granted out of court, and the copy of court roll of any license to demise, if granted in court, where the clear yearly value of the estate shall exceed 20s.		1	0 0
And where the same shall not exceed 20s.		0	5 0

Exemptions from the preceding and all other Stamp Duties.

Original surrenders out of court, and copies of court roll of surrenders in court, to the uses of a will, or to a trustee for the uses or purposes of a will.

The court rolls or books of any manor, wherein the proceedings relating thereto shall be entered or minuted.

See, also, the General Exemptions at the end of this part of the schedule.

DEBENTURE or CERTIFICATE for entitling any person to receive any drawback of any duty or duties, or part of any duty or duties, of customs or excise, or any bounty, payable out of the revenue of customs or excise, for or in respect of any goods, wares, or merchandize exported or shipped to be exported from Great Britain to any part beyond the seas.

If the same shall not exceed 100l.	0	5	0
If the same shall exceed 100l. and not exceed 200l.	0	10	0
If the same shall exceed 200l. and not exceed 500l.	1	0	0
If the same shall exceed 500l.	2	0	0

Exemptions from the preceding and all other Stamp Duties.

All debentures or certificates for bounty, which were heretofore exempted from stamp duty by any act or acts of Parliament, granting a bounty on the exportation of linens or sail-cloth.

DECLARATION of any use or trust, uses or trusts, of or concerning any estate or property, real or personal, where made by any writing not being a deed or will, nor otherwise charged in the schedule

And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	15	0
If made by deed.— <i>See Deed.</i>	1	5	0

DEED, whereby any real burthen shall be declared or created on lands or heritable subjects in Scotland.—*See Mortgage, Disposition.*

DEED, containing an obligation to infest any person, in heritable subjects in Scotland, under a clause of reversion, as a security for money, but without any personal bond or obligation therein for payment of the money intended to be secured.—*See Mortgage.*

DEED of any kind whatever, *not otherwise charged in this schedule*, nor expressly exempted from all stamp duty

And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity	1	15	0
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of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	5	0
DEFEAZANCE.—Deed, or other instrument of defeazance, of any conveyance, disposition, assignation, or tack, apparently absolute, but intended only as a security for money or stock.—See <i>Mortgage</i> .			
DEPUTATION by the commissioners of excise.—See <i>Commission</i> .			
DEPUTATION or appointment of a gamekeeper	1	15	0
DISCHARGE for money.—See <i>Receipt</i> .			
DISPENSATION for holding two ecclesiastical dignities or benefices, or a dignity and a benefice, in England, where either of them shall be above the yearly value of 10 <i>l</i> . in the king's books	40	0	0
And in all other cases	25	0	0
DISPENSATION of any other kind, from the Archbishop of Canterbury, or the master of the faculties for the time being, or from the guardian of the spiritualities during a vacancy of the archbishop's see	40	0	0
DISPOSITION of lands or heritable subjects in Scotland to singular successors or purchasers.—See <i>Conveyance</i> .			
DISPOSITION of lands or other heritable subjects in Scotland, to a purchaser, containing a clause, declaring all or any part of the purchase money a real burthen upon or affecting the lands or heritable subjects thereby disposed, or any part thereof;			
Such dispositions shall be charged, not only with the <i>ad valorem</i> and <i>progressive</i> duties hereinbefore charged on a conveyance upon the sale of lands or heritable subjects in Scotland, but also with the <i>ad valorem</i> duty hereinbefore charged on any deed creating a real burthen on lands in Scotland.—See <i>Conveyance</i> — <i>Mortgage</i> .			
DISPOSITION in security, in Scotland.—See <i>Mortgage</i> .			
DISPOSITION of any wadset, heritable bond, &c.—See <i>Mortgage</i> .			
DISPOSITION of any lands or other property, heritable or moveable, in Scotland, or of any right or interest therein, <i>not otherwise charged in this schedule</i>	1	15	0
And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	5	0
DOCKET, made on passing under the great seal of the United Kingdom, any grant, letters patent, exemplification, constat, or other instrument, requiring a docket	0	2	0
DONATION by his majesty, his heirs or successors, or by any other patron,			
Of any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of 10 <i>l</i> . or upwards in the king's books	20	0	0
Of any other ecclesiastical benefice, dignity, or promotion whatsoever in England	10	0	0
DRAFT for Money.—See <i>Bill of Exchange</i> .			
EIK to a Reversion.—See <i>Mortgage</i> .			
EXCHANGE.—Any deed, whereby any lands or other hereditaments or heritable subjects in England or Scotland, shall be conveyed, or any copyhold or customary lands or hereditaments in England, shall be covenanted to be surrendered <i>in exchange</i> for other lands or hereditaments, or heritable subjects,			
If no sum of money, or only a sum under 300 <i>l</i> . shall be paid, or agreed to be paid, for equality of exchange, the ordinary duty of	1	15	0
And if a sum of 300 <i>l</i> . or upwards shall be paid, or agreed to be paid for equality of exchange	The same <i>ad valorem</i> duty as for a conveyance on the sale of lands for a sum of money equal to the sum so paid or agreed to be paid.		
And where any such deed of exchange, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for			

55 Geo. 3, c. 184. EXCHANGE—Continued.)

£ s. d.

every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of
 If the deed be liable, in the first instance, to a duty of 1*l*. 15*s*.
 Or if liable to a higher duty, in the first instance

1 5 0
 1 0 0

And any duplicate of any such deed of exchange shall be charged with the same duty or duties; and if the exchange shall be effected or secured by separate conveyances or covenants, by distinct deeds, each deed shall be charged with the same duty or duties.

And in case there shall be more than one deed for completing the title to the lands or other hereditaments or heritable subjects conveyed by either party, the principal deed only shall be charged under this head of exchange; and any subordinate or collateral deed shall be charged with the duty to which it may be liable under any other description in this schedule.

EXEMPLIFICATION or constat under the great seal of the United Kingdom of Great Britain and Ireland, of any letters patent or grant, made or to be made by his majesty, his heirs or successors, or by any of his royal predecessors, of any honour, dignity, promotion, franchise, liberty, or privilege, or of any lands, office, or other thing whatsoever,

For every skin, sheet, or piece of vellum, parchment, or paper, upon which any such exemplification or constat shall be written

5 0 0

EXTRACTS from registers and records in England and Scotland.

See *Copy*.

FACTORY, in the nature of a power of attorney in Scotland. See *Letter of Attorney*.

FACULTY, license, or commission, for admitting or authorizing any person to act as a notary public in England

30 0 0

FACULTY, license, or commission, for admitting or authorizing any person to act as a notary public in Scotland

20 0 0

FACULTY from the Archbishop of Canterbury, or the master of the faculties for the time being, or from the guardian of the spiritualities during a vacancy of the archbishop's see, *not otherwise charged*

30 0 0

FEOFFMENT of lands or other hereditaments in England, upon the sale or mortgage thereof. See *Conveyance—Mortgage*.

FEOFFMENT of lands or other hereditaments in England, *not otherwise charged*

1 15 0

And where the same shall contain any letter or letters of attorney to deliver or receive seisin, a *further* duty of

1 15 0

And where the same, together with any such letter or letters of attorney, and any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of

1 5 0

FURTHER CHARGE. See *Mortgage*.

GIFT of *ultimus hæres*, bastardy, escheat, or forfeiture, in Scotland. See *Grant*.

GIFT of the vacant stipend of any parish in Scotland, whereof the presentation to the church shall belong to the crown

1 10 0

GRANT or letters patent, under the great seal of the United Kingdom of Great Britain and Ireland, or of the seal of the duchy or county palatine of Lancaster, or under the seal kept and used in Scotland, in place of the great seal formerly used there,

Of the honour or dignity of a duke

350 0 0

_____ of a marquis

300 0 0

_____ of an earl

250 0 0

_____ of a viscount

200 0 0

_____ of a baron

150 0 0

_____ of a baronet

100 0 0

Of a *conge d'elire*, to any dean and chapter, for the election of an archbishop or bishop

30 0 0

Of the royal assent to or signification of the election made by

GRANT—(Continued.)

£ s. d. 35 Geo. 2. c. 181.

any dean and chapter, or of the nomination and presentation by his majesty, his heirs, or successors, in default of such election, of any person to be an archbishop or bishop	30	0	0
Of or for the restitution of the temporalities to any archbishop or bishop	30	0	0
Of any other honour, dignity, or promotion whatsoever, or of any franchise, liberty, or privilege, to any person or persons, body or bodies politic or corporate	30	0	0
And where two or more honours or dignities shall be granted by the same letters patent to the same person, such letters patent shall be charged with the proper duty in respect of the highest in point of rank only.			
And where any honour or dignity, honours or dignities, shall be granted to any person or persons, in remainder, the letters patent shall be charged with such further duty, in respect of every remainder, as would have been payable for an original grant of the same honour or dignity, honours or dignities.			
And where any such grant or letters patent shall be contained in more than one skin, sheet, or piece of vellum, parchment, or paper, then for every skin, sheet, or piece thereof, after the first, a further <i>progressive</i> duty of	20	0	0

Exemptions from the preceding and all other Stamp Duties.

Commissions of rebellion in process.

Letters patent or briefs for collecting charitable benevolences.

Letters patent for confirming any dispensation hereinbefore charged with a duty.

Letters patent appointing sheriffs in England, and the writs of assistance accompanying such letters patent.

GRANT, or warrant of precedence to take rank among nobility, under the sign manual of his majesty, his heirs, or successors . . . 100 0 0

GRANT or license under the sign manual, to take and use a surname and arms, or a surname only, in compliance with the injunctions of any will or settlement . . . 50 0 0

GRANT or license under the sign manual, to take and use a surname and arms, or a surname only, upon any voluntary application . . . 10 0 0

GRANT of arms or armorial ensigns only, under the sign manual, or by any of the kings of arms of England or Scotland . . . 10 0 0

GRANT, lease, or tack, under the great seal of the United Kingdom of Great Britain and Ireland, or the seal of the exchequer of England, or the seal of the duchy or county palatine of Lancaster, or the seal kept and used in Scotland, in place of the great seal formerly used there; or under the privy seal in England, or the quarter seal or privy seal in Scotland, unless directed to the great seal; or under the royal sign manual of his majesty, his heirs, or successors, unless directed to any of the seals aforesaid,

Of any lands, tenements, hereditaments, or heritable subjects, whatever the tenure thereof may be, which have or shall come to his majesty, his heirs, or successors, by escheat or forfeiture, or as *ultimus heres*, or by reason of the same being purchased by or for any alien; or which his majesty, his heirs, or successors, is or shall be otherwise entitled to, in right of the crown, and be authorized to dispose of, *absolutely*, as he or they shall think fit; whether such grant, lease, or tack, shall be in fee or fee tail, or for term of life or years,

Of any lands, tenements, hereditaments, or heritable subjects belonging to the duchy of Lancaster, or belonging to the crown in Scotland, whereof his majesty, his heirs, or successors, is or shall be authorized to make only certain *limited* grants, leases, or tacks; whether such grant, lease, or tack shall be for term of life or years,

Of any goods, chattels, or personal or moveable estate, or other profit, whereof the grant is not otherwise charged in this schedule,

Where such grant, lease, or tack, shall be intended to operate in

55 Geo. 3, c. 184. GRANT—(Continued.)

£ s. d.

any degree, as a gift, except in the cases next hereinafter mentioned, then for every skin, sheet, or piece of vellum, parchment, or paper, upon which the same shall be written, a duty of	30	0	0
And where any such grant, lease, or tack, operating as a gift, shall be of lands or other hereditaments, or heritable subjects, vested in his majesty, his heirs, or successors, by escheat or as <i>ultimus haeres</i> , for want of heirs of any person, who was a <i>bare trustee</i> thereof, or seised into the hands of the crown upon any <i>outlawry</i> , in a civil action, at the suit of any of his majesty's subjects	1	15	0
And if any such grant, lease, or tack, charged with a duty of 1 <i>l.</i> 15 <i>s.</i> , together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	5	0
And where any such grant, lease, or tack, shall be made for what shall be deemed and intended as a full and adequate consideration for the same, either in money paid at once, or in rent, or in lands or hereditaments given in exchange or otherwise	The same duty as on a grant, lease, or tack of the like description, made by any of his majesty's subjects.		
GRANT, or conveyance, under the seal of the duchy of Lancaster, made in pursuance of the act passed in the 19th year of his majesty's reign, c. 45, for enabling the chancellor and council of the duchy to sell certain rents, and to enfranchise copyhold and customary tenements within their survey	The same duty as for any other conveyance upon the sale of any property for a consideration of the like amount.		
See Conveyance.			

Exemptions from the preceding and all other Stamp Duties, except the Duty on the Receipt for Consideration Money.

All grants and conveyances under the seal of the duchy of Lancaster, made in pursuance of the said act of the 19th year of his majesty's reign, where the consideration money paid for the same shall not exceed 10*l.*

GRANT, lease, or other conveyance, from his majesty, his heirs, or successors, of any lands, tenements, or hereditaments, or of any personal estate, being respectively the private property of his majesty, his heirs, or successors, and subject to his or their absolute disposal, by virtue of the act passed in the 40th year of his majesty's reign, concerning the disposition of certain real and personal property of his majesty, his heirs, or successors	The same duty as on a grant, lease, or conveyance of the like description, from any of his majesty's subjects.		
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GRANT under the great seal of the United Kingdom of Great Britain and Ireland, or the seal kept and used in Scotland, in place of the great seal formerly used there; or under the privy seal in England, or the quarter seal or privy seal in Scotland, unless directed to the great seal; or under the sign manual of his majesty, his heirs, or successors, unless directed to any of the seals aforesaid; out of the civil list, either of England or Scotland, or out of any other fund, not being part of the supplies of the year, or appropriated by Parliament,

Of any definite and certain sum or sums of money,			
Not amounting to 100 <i>l.</i>	1	10	0
Amounting to 100 <i>l.</i> and not amounting to 250 <i>l.</i>	4	0	0
Amounting to 250 <i>l.</i> and not amounting to 500 <i>l.</i>	10	0	0
Amounting to 500 <i>l.</i> and not amounting to 750 <i>l.</i>	20	0	0
Amounting to 750 <i>l.</i> and not amounting to 1000 <i>l.</i>	30	0	0
Amounting to 1000 <i>l.</i> or upwards; for every 100 <i>l.</i> thereof	5	0	0
Or of any annuity or pension,			
Not amounting to 100 <i>l.</i> per annum	1	10	0
Amounting to 100 <i>l.</i> and not amounting to 200 <i>l.</i> per annum	4	0	0
Amounting to 200 <i>l.</i> and not amounting to 400 <i>l.</i> per annum	10	0	0

GRANT—(Continued.)

	£	s.	d.	55 Geo. 3, c. 104.
Amounting to 400 <i>l.</i> and not amounting to 600 <i>l.</i> per annum	20	0	0	
Amounting to 600 <i>l.</i> and not amounting to 800 <i>l.</i> per annum	30	0	0	
Amounting to 800 <i>l.</i> and not amounting to 1000 <i>l.</i> per annum	40	0	0	
Amounting to 1000 <i>l.</i> per annum or upwards	50	0	0	
But where any such grant of an annuity or pension shall be made in confirmation or by way of renewal only of any former grant of the like amount and description, then only a duty of	1	10	0	
And where several and distinct annuities or pensions shall be granted to or for the benefit of different persons by the same instrument, the proper duty shall be charged in respect of each annuity or pension; but where the grant shall be of any annuity or pension, to or for the benefit of two or more persons jointly, the duty shall be charged in respect of the whole.				
GRANT, or appointment by his majesty, his heirs, or successors, or by any other person or persons, body politic or corporate, of or to any office or employment, by letters patent, deed, or other writing, Where the salary, fees, and emoluments appertaining thereto, shall not amount to 50 <i>l.</i> per annum	2	0	0	
And where the same shall amount to 50 <i>l.</i> and not amount to 100 <i>l.</i> per annum	4	0	0	
And where the same shall amount to 100 <i>l.</i> and not amount to 200 <i>l.</i> per annum	6	0	0	
And where the same shall amount to 200 <i>l.</i> and not amount to 300 <i>l.</i> per annum	12	0	0	
And where the same shall amount to 300 <i>l.</i> and not amount to 500 <i>l.</i> per annum	25	0	0	
And where the same shall amount to 500 <i>l.</i> and not amount to 750 <i>l.</i> per annum	35	0	0	
And where the same shall amount to 750 <i>l.</i> and not amount to 1000 <i>l.</i> per annum	50	0	0	
And where the same shall amount to 1000 <i>l.</i> and not amount to 1500 <i>l.</i> per annum	75	0	0	
And where the same shall amount to 1500 <i>l.</i> and not amount to 2000 <i>l.</i> per annum	100	0	0	
And where the same shall amount to 2000 <i>l.</i> and not amount to 3000 <i>l.</i> per annum	150	0	0	
And where the same shall amount to 3000 <i>l.</i> per annum or upwards	200	0	0	
The said fees and emoluments to be estimated according to the average amount thereof for three years preceding, where practicable; and, in other cases, according to the best information that can be obtained.				
And where any such grant or appointment shall be made to or of two or more persons jointly, with separate and distinct salaries, fees, or emoluments, the same shall be charged with a separate and distinct duty, in respect of each person, according to the amount of the salary, fees, and emoluments appertaining to such person.				
Provided always, that no duty shall be charged, in respect of any person to whom any office or employment shall be granted anew, upon the revocation of any former grant or appointment thereof, and who shall have paid a stamp duty on such former grant or appointment, unless the salary, fees, and emoluments appertaining to such person shall be in any manner augmented; and, in that case, a duty shall be charged, in respect of such person, only in proportion to the amount of the augmentation.				
GRANT by copy of court roll. See <i>Conveyance, Copyhold.</i>				
GRANT upon the sale of any property not belonging to the crown. See <i>Conveyance.</i>				
HERITABLE BOND. See <i>Bond, Mortgage.</i>				
INSTITUTION, granted by an archbishop, bishop, chancellor, or other ordinary, or by any ecclesiastical court in and to any ecclesiastical benefice, dignity, or promotion, in England,				
Where the same shall proceed upon a presentation	2	0	0	

And where it shall proceed upon the petition of the patron to be himself admitted and instituted; if the benefice, dignity, or promotion, shall be of the yearly value of 10 <i>l.</i> or upwards in the king's books	30	0	0
Or if the same shall be of any other description	15	0	0
But such petition shall not be liable to any stamp duty.			
INSTITUTION, by any presbytery or other competent authority, to ecclesiastical benefices in Scotland. See <i>Collation</i> .			
INVENTORY. See <i>Schedule</i> .			
LAND-TAX. Instruments relating to the redemption and sale thereof. See the general exemptions at the end of this part of the schedule.			
LEASES or tacks of lands, &c. belonging to his majesty, in right of the crown, or otherwise. See <i>Grant</i> .			
LEASES, or tacks of lands, &c. not belonging to his majesty, viz.			
LEASE (or bargain and sale) for a year. See <i>Bargain and Sale</i> .			
LEASE or tack of any lands, hereditaments, or heritable subjects, granted in consideration of a sum of money by way of fine, premium, or grassum, paid for the same, without any yearly rent, or with any yearly rent, under 20 <i>l.</i> (a)	The same duty as for the conveyance on the sale of lands for a sum of money of the same amount.		
Save and except leases and tacks for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, by whomsoever granted, and leases for a term absolute not exceeding twenty-one years, granted by ecclesiastical corporations, aggregate or sole.			
LEASE or tack of any lands, hereditaments, or heritable subjects, at a yearly rent, without any sum of money by way of fine, premium, or grassum, paid for the same,			
Where the yearly rent shall not amount to 20 <i>l.</i>	1	0	0
And where the same shall amount to 20 <i>l.</i> and not amount to 100 <i>l.</i>	1	10	0
And where the same shall amount to 100 <i>l.</i> and not amount to 200 <i>l.</i>	2	0	0
And where the same shall amount to 200 <i>l.</i> and not amount to 400 <i>l.</i>	3	0	0
And where the same shall amount to 400 <i>l.</i> and not amount to 600 <i>l.</i>	4	0	0
And where the same shall amount to 600 <i>l.</i> and not amount to 800 <i>l.</i>	5	0	0
And where the same shall amount to 800 <i>l.</i> and not amount to 1000 <i>l.</i>	6	0	0
And where the same shall amount to 1000 <i>l.</i> or upwards	10	0	0
LEASE or tack of any lands, hereditaments, or heritable subjects, granted in consideration of a sum of money by way of fine, premium, or grassum, and also of a yearly rent amounting to 20 <i>l.</i> or upwards (Save and except the leases and tacks hereinbefore excepted.)	Both the ad valorem duties payable for a lease in consideration of a fine only, and for a lease in consideration of a rent only of the same amount.		
LEASE, or tack of any kind, not otherwise charged in this schedule	1	15	0
And for the counterpart or duplicate of any lease or tack hereby charged with a duty not exceeding 1 <i>l.</i>	The like duty as on the lease or tack.		
And for the counterpart or duplicate of any other lease or tack whatsoever	1	10	0
And where any such lease or tack, counterpart, or duplicate, as aforesaid, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of	1	0	0
<i>Exemptions from the preceding and all other Stamp Duties.</i>			
Leases or tacks of waste or uncultivated lands to any poor or labouring persons, for any term not exceeding three lives, or ninety-nine years, where the fine shall not exceed 5 <i>s.</i> , nor the reserved rent one guinea per annum; and the counterparts or duplicates of all such leases.			
LETTER, or power of attorney, made by any petty officer, seaman, marine, or soldier serving as a marine, or by the executors or ad-			

LETTER—(Continued.)	£	s.	d.	55 Geo 3, c. 184.
ministrators of any such person, for receiving prize-money	0	1	0	
and for receiving wages	1	0	0	
LETTER of attorney for the sale, transfer, acceptance, or receipt of dividends, of any of the government or parliamentary stocks or funds	1	0	0	
LETTER or power of attorney of any other kind, or commission or factory in the nature thereof	1	10	0	
And where the same, together with any schedule, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	0	0	
<i>Exemptions from the preceding and all other Stamp Duties.</i>				
Letters of attorney for the receipt of dividends of any definite and certain share of the government or parliamentary stocks or funds, producing a yearly dividend of less than <i>St.</i>				
LETTER of license from creditors to a debtor	1	15	0	
And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further <i>progressive</i> duty of	1	5	0	
LETTERS of mark and reprisal	5	0	0	
LETTERS Patent.—See <i>Grant</i> .				
LETTER of REVERSION in Scotland.—See <i>Mortgage</i> .				
LICENSE for marriage, in England, if special	5	0	0	
if not special	0	10	0	
LICENSE to be granted by any archbishop, bishop, vicar-general, or other competent authority, in England, for the non-residence of any clergyman upon his living, pursuant to the act of the forty-third year of his majesty's reign	1	0	0	
LICENSE of any kind, not otherwise charged in this schedule, which shall pass the seal of any archbishop, bishop, chancellor, or other ordinary, or of any ecclesiastical court in England, or which shall be granted by any presbytery, or other ecclesiastical power, in Scotland	2	0	0	
<i>Exemptions from the preceding and all other Stamp Duties.</i>				
Licenses to stipendiary curates in England, wherein the annual amount of the stipend shall be specified, and licenses for the non-residence of clergymen upon their livings, where granted on the ground of there being no house or no fit house of residence thereon.				
LICENSE to use and exercise the calling or occupation of an appraiser	0	10	0	
To be taken out yearly, by every person who shall exercise the said calling or occupation, or make any appraisement or valuation, hereinbefore charged with a duty, for or in expectation of any gain, fee, or reward, except licensed auctioneers.				
LICENSE to be taken out yearly by any banker or bankers, or other person or persons who shall issue any promissory notes for money payable to the bearer on demand, and allowed to be re-issued	30	0	0	
LICENSE to be taken out yearly for using or exercising the trade or business of a pawnbroker, within the cities of London and Westminster, or within the limits of the twopenny post	15	0	0	
And for using or exercising the trade or business of a pawnbroker elsewhere	7	10	0	
LICENSE to exercise the faculty of physic.—See <i>Admission</i> .				
LICENSE to act as a notary public.—See <i>Faculty</i> .				
LICENSE to demise copyhold lands.—See <i>Copyhold</i> .				
MARRIAGE LICENSE.—See <i>License</i> .				
MATRICULATION in the universities.—See <i>Admission</i> .				
MEMORIAL to be registered pursuant to any act of Parliament, made				

Stamps.

MEMORIAL—(Continued.)

	£	s.	d.
or to be made for the public registering of deeds and conveyances in England	0	10	0
And for every piece of vellum, parchment, or paper, upon which any such memorial shall be written, after the first, a further progressive duty of	0	10	0
MEMORIAL to be registered or enrolled pursuant to act of Parliament, of any deed or instrument, deeds or instruments, whereby any annuity shall be granted or secured in England	1	0	0
And for every piece of vellum, parchment, or paper, upon which any such memorial shall be written, after the first, a further progressive duty of	1	0	0
MORTGAGE, conditional surrender by way of mortgage, further charge, wadset, and heritable bond; disposition, assignation, or tack, in security; and eik to a reversion; of or affecting any lands, estate, or property, real or personal, heritable or moveable whatsoever,			
Also any deed containing an obligation to infest any person in an annual rent, or in lands or other heritable subjects in Scotland, under a clause of reversion, but without any personal bond or obligation therein contained, for payment of the money or stock intended to be secured.			
Also any conveyance of any lands, estate, or property whatsoever, in trust, to be sold or otherwise converted into money, which shall be intended only as a security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; except where such conveyance shall be made for the benefit of creditors generally, or for the benefit of creditors specified, who shall accept the provision made for payment of their debts, in full satisfaction thereof, or who shall exceed five in number;			
Also any defeasance, letter of reversion, back bond, declaration, or other deed or writing for defeating or making redeemable, or explaining or qualifying any conveyance, disposition, assignation, or tack, of any lands, estate, or property whatsoever, which shall be apparently absolute, but intended only as a security;			
Also any agreement, contract, or bond, accompanied with a deposit of title-deeds for making a mortgage, wadset, or any such other security or conveyance as aforesaid, of any lands, estate, or property comprised in such title-deeds, or for pledging or charging the same as a security;			
And also any deed, whereby a real burden shall be declared or created on lands or heritable subjects in Scotland;			
Where the same respectively shall be made, as a security for the payment of any definite and certain sum of money, advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable,			
Not exceeding 50 <i>l</i> .	1	0	0
Exceeding 50 <i>l</i> . and not exceeding 100 <i>l</i> .	1	10	0
Exceeding 100 <i>l</i> . and not exceeding 200 <i>l</i> .	2	0	0
Exceeding 200 <i>l</i> . and not exceeding 300 <i>l</i> .	3	0	0
Exceeding 300 <i>l</i> . and not exceeding 500 <i>l</i> .	4	0	0
Exceeding 500 <i>l</i> . and not exceeding 1000 <i>l</i> .	5	0	0
Exceeding 1000 <i>l</i> . and not exceeding 2000 <i>l</i> .	6	0	0
Exceeding 2000 <i>l</i> . and not exceeding 3000 <i>l</i> .	7	0	0
Exceeding 3000 <i>l</i> . and not exceeding 4000 <i>l</i> .	8	0	0
Exceeding 4000 <i>l</i> . and not exceeding 5000 <i>l</i> .	9	0	0
Exceeding 5000 <i>l</i> . and not exceeding 10,000 <i>l</i> .	12	0	0
Exceeding 10,000 <i>l</i> . and not exceeding 15,000 <i>l</i> .	15	0	0
Exceeding 15,000 <i>l</i> . and not exceeding 20,000 <i>l</i> .	20	0	0
Exceeding 20,000 <i>l</i> .	25	0	0

And where the same respectively shall be made as a security for the re-payment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, to-

MORTGAGE—(Continued.)

£ s. d. 35 Geo. 3, c. 184

gether with any sum already advanced or due, or without, as the case may be; other than and except any sum or sums of money to be advanced for the insurance of any property comprised in such mortgage or security against damage by fire, or to be advanced for the insurance of any life or lives, pursuant to any agreement in any deed, whereby any annuity shall be granted or secured for such life or lives,

If the total amount of the money secured, or to be ultimately recoverable thereupon, shall be uncertain and without any limit 25 0 0

But if the total amount of the money secured, or to be ultimately recoverable thereupon, shall be limited } *The same duty as on a mortgage or wadset for such limited sum.*

And where the same respectively shall be made as a security for the transfer or re-transfer of any share in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East India Company, or of the South Sea Company, in consideration of stock or money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable } *The same duty as on a mortgage or wadset for a sum of money, equal to the value of the stock or fund secured, according to the average price thereof, on the day of the date of the mortgage or other instrument aforesaid, or on either of the ten days preceding.*

And where the same respectively shall be made, as a security for the payment of a sum of money, and also for the transfer or re-transfer of a share in any of the said stocks or funds, the said *ad valorem* duty shall be charged in respect of each.

And in case the same respectively shall be made, as a security for the payment or transfer, to different persons, of separate and distinct sums of money, or shares in any of the said stocks or funds; the said *ad valorem* duty shall be charged for and in respect of each separate and distinct sum of money, or share in any of the said stocks or funds therein specified and secured, and not upon the aggregate amount thereof.

And where any such mortgage or wadset, or other instrument hereby charged with the same duty as a mortgage or wadset, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words, a further progressive duty of

1 0 0

MORTGAGE, &c. Any transfer or assignment, disposition or assignation, of any mortgage or wadset, or of any such other security as aforesaid, or of the benefit thereof, and of the money or stock thereby secured, in all cases where the person entitled to the right of redemption or reversion shall not be made a party to such transfer or assignment, disposition or assignation; and also where the person who originally made the mortgage, wadset, or other security, shall continue entitled to the right of redemption or reversion, and shall be made a party to such transfer or assignment, disposition or assignation; provided no further sum of money or stock be added to the principal money or stock already secured

1 15 0

And in all other cases, such transfer or assignment, disposition or assignation, shall be charged with } *The same duty or duties as an original mortgage, wadset, or other security.*

And where any such transfer or assignment, disposition or assignation, hereby charged with a duty of 1l. 15s., together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further and progressive duty of

1 5 0

Provided always, that where several distinct deeds or instruments falling within the description of any of the instruments hereby charged with the said *ad valorem* duty on mortgages and wadsets, shall be made at the same time, for securing the

payment or transfer of one and the same sum of money; or one and the same share of any of the stocks or funds before mentioned; the said *ad valorem* duty, if exceeding 2*l.*, shall be charged only on one of such deeds or instruments; and all the rest shall be charged with the duty to which the same may be liable, under any more general description of such deeds or instruments contained in this schedule; and if required for the sake of evidence, all the rest of such deeds or instruments shall be also stamped with some particular stamp, for denoting or testifying the payment of the said *ad valorem* duty, on all the said deeds or instruments being produced, duly stamped with the duties hereby charged thereon.

And where any copyhold or customary lands or hereditaments shall be mortgaged, by means of a conditional surrender or grant, the said *ad valorem* duty shall be charged on the surrender or grant, or the memorandum thereof, if made out of court; or on the copy of court roll of the surrender or grant, if made in court. And copies of court roll, made after the 31st day of August, 1815, of surrenders and grants made in court, before or upon that day, and subsequent to the 10th day of October, 1808, shall be charged with the said *ad valorem* duties. But copies of court roll, of surrenders, and grants, made before or upon the 10th day of October, 1808, shall not be liable thereto.

And where any copyhold or customary lands or hereditaments shall be mortgaged or charged, together with other property, for securing one and the same sum of money, or one and the same share of any of the stocks or funds before mentioned; the said *ad valorem* duty shall be charged on the deed or instrument relating to the other property.

And where there shall be duplicates of any deed or instrument, chargeable with the said *ad valorem* duty on mortgages and wadsets, exceeding 2*l.*, one of them only shall be charged therewith, and the other or others shall be charged with the duty to which the same may be liable, under any more general description in this schedule; and on the whole being produced, duly stamped as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said *ad valorem* duty.

Exemptions from the said ad valorem duty on mortgages, &c., but not from any other duty to which the same may be liable.

Any deed or other instrument made in pursuance of and conformably to any agreement, contract, or bond, charged with, and which shall actually have paid the said *ad valorem* duty, or the *ad valorem* duty on mortgages granted by the act of the forty-eighth year of his majesty's reign before mentioned.

Any deed or other instrument, made for the further assurance only of any estate or property, already mortgaged, pledged, or charged as a security, by any deed or instrument, which shall have paid the said *ad valorem* duty hereby charged, or the *ad valorem* duty on mortgages or heritable bonds, imposed by the act of the forty-fourth or the act of the forty-eighth year of his majesty's reign before mentioned.

Any deed or other instrument, made as an additional or further security for any sum or sums of money, or any share or shares of any of the stocks or funds before mentioned, already secured by any deed or instrument, which shall have paid the said *ad valorem* duty hereby charged, or the *ad valorem* duty on mortgages or heritable bonds, charged by the said act of the forty-fourth, or the said act of the forty-eighth year of his majesty's reign, to be exempt from the said *ad valorem* duty hereby charged, so far as regards such sum or sums of money, or such share or shares of any of the said stocks or funds before secured, in case such additional or further security shall be made

MORTGAGE—(Continued.)

2 s. d. 33 Geo. 2, c. 184.

by the same person or persons who made the original security; but if any further sum of money or stock shall be added to the principal money or stock already secured, or shall be thereby secured to any other person, the said *ad valorem* duty shall be charged in respect of such further sum of money or stock.

And if necessary, for the sake of evidence, the deeds and instruments hereby exempted from the said *ad valorem* duty shall be stamped with a particular stamp, for denoting or testifying the payment of the *ad valorem* duty, upon all the deeds and instruments relating to the particular transaction being produced, and appearing to be duly stamped with the duties to which they were liable.

For general exemptions from the preceding and all other stamp duties, see the end of this part of the schedule.

MORTGAGE, wadset, &c., with a conveyance of the equity or right of redemption or reversion, or other matter in the same deed, viz.

Where any deed or writing shall operate as a mortgage or other instrument hereby charged with the *ad valorem* duty on mortgages, and also as a conveyance of the equity or right of redemption or reversion of any lands, estate, or property therein comprised, to or in trust for, or according to the direction of a purchaser, such deed or writing shall be charged not only with the said *ad valorem* duty on mortgages, but also with the *ad valorem* duty herebefore charged on a conveyance upon the sale of any property; but where the equity or right of redemption or reversion shall be thereby conveyed or limited in any other manner, such deed or writing shall be charged only as a mortgage;

And in all other cases where a mortgage or other instrument hereby charged with the *ad valorem* duty on mortgages shall be contained in one and the same deed or writing with any other matter or thing (except what shall be incident to such mortgage or other instrument), such deed or writing shall be charged with the same duties (except the progressive duty), as such mortgage or other instrument and such other matter or thing would have been separately charged with if contained in separate deeds or writings.

And where any such deed or writing, as is mentioned in the two preceding clauses, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . (a) 1 0 0

MUTUAL DISPOSITION or conveyance in Scotland.—See *Exchange and Partition*.

NOMINATION by his majesty, his heirs, or successors, or by any other patron, to any perpetual curacy in England . . . 1 10 0

NOTARIAL act; any whatsoever not otherwise charged in this schedule . . . 0 5 0

And for every sheet or piece of paper, parchment, or vellum, upon which the same shall be written, after the first, a further progressive duty of . . . 0 5 0

ORDER for the payment of money.—See *Bill of Exchange*.

PARTITION.—Any deed, whereby any lands or other hereditaments, or heritable subjects in England or Scotland, shall be conveyed, or any copyhold or customary lands or hereditaments in England shall be covenanted to be surrendered, in order to effect a partition or division thereof, among coparceners, joint-tenants, or tenants in common, heirs-portioners, conjux-fians, or joint-proprietors of any sort,

If no sum of money, or only a sum under 300*l.* shall be paid, or agreed to be paid, for equality of partition or division; the ordinary duty of . . . 1 15 0

(a) See the 3 Geo. 4, c. 117.

And if any sum or sums of money, amounting to 300*l.* or upwards, shall be paid, or agreed to be paid, for equality

The same ad valorem duty as for a conveyance on the sale of lands, for a sum of money equal to the amount of the sum or sums so paid or agreed to be paid.

And where any such deed of partition or division, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

If the deed be liable, in the first instance, to a duty of 1*l.* 15*s.*

1 5 0

Or if liable to a higher duty in the first instance

1 0 0

And any duplicate of any such deed of partition or division shall be charged with the same duty or duties.

And in case there shall be more than one deed, for completing the title to the estate or interest conveyed by either party, the principal deed only shall be charged under this head of partition; and any subordinate or collateral deed shall be charged with the duty to which it may be liable, under any other description in this schedule.

PASSPORT

0 5 0

PAWNBROKER'S License.—See *License*.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called; whereby any insurance shall be made upon any life or lives, or upon any event or contingency relating to or depending upon any life or lives,

Where the sum insured shall not amount to 500*l.*

1 0 0

And where it shall amount to 500*l.* and not to 1000*l.*

2 0 0

And where it shall amount to 1000*l.* and not to 3000*l.*

3 0 0

And where it shall amount to 3000*l.* and not to 5000*l.*

4 0 0

And where it shall amount to 5000*l.* or upwards

5 0 0

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made of or upon any building, goods, wares, merchandize, or other property, from loss or damage by fire only, by any public company, or other person or persons, duly licensed, or who ought to be licensed, by the commissioners of stamps, pursuant to the act of the twenty-second year of his majesty's reign, c. 48, or by the Royal Exchange or London Assurance Corporation

0 1 0

And for and in respect of every insurance from loss or damage by fire only, which shall, at any time after the 28th day of September, 1815, be made or renewed, or continued by any public company, or other person or persons licensed, or who ought to be licensed, as above mentioned, or by the Royal Exchange or London Assurance Corporation, a duty of 3*s.* for every 100*l.* insured for a year, and at and after that rate for any fractional part of 100*l.* insured, and for any fractional part of a year, as well as for any number of years for which the insurance shall be made or renewed, or continued; but no fraction of a penny shall be charged

per centum
per ann.
0 3 0

Exemptions.

Insurances on public hospitals, and on property in any foreign kingdom or state in amity with his majesty, his heirs, or successors.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made, pursuant to the act of the 50th year of his majesty's reign, c. 35, by any person or persons, not being licensed pursuant to the said act of the 22nd year of his majesty's reign, of or upon any building, goods, wares, merchandize, or other property, situated and being in any of the islands, settlements, or territories belonging to or under the dominion of his majesty, his heirs, or successors, in the West Indies, or elsewhere beyond the seas, from loss

POLICY—(Continued.)

£ s. d. 35 Geo. 2, c. 124.

or damage by fire, for any period of time not exceeding twelve calendar months

0 2 6

And also the further or additional duty following, viz.

If the whole sum insured shall not exceed 100*l*.

0 5 0

And if the whole sum insured shall exceed 100*l*., then for every 100*l*. and also for any fractional part of 100*l*. whereof the same shall consist

0 5 0

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any ship or vessel, or upon any goods, merchandize, or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured, for or upon any voyage from any port or place in the United Kingdom of Great Britain and Ireland, or in the islands of Guernsey, Jersey, Alderney, or Sark, or the Isle of Man, to any other port or place in the said kingdom or islands, or Isle of Man,

Where the premium or consideration for such insurance, actually and *bona fide* paid, given, or contracted for, shall not exceed the rate of 20*s*. per centum on the sum insured,

If the whole sum insured shall not exceed 100*l*.

0 1 3

And if the whole sum insured shall exceed 100*l*., then for every 100*l*. and also for any fractional part of 100*l*. whereof the same shall consist

0 1 3

And where the premium or consideration for such insurance, actually and *bona fide* paid, given, or contracted for, shall exceed the rate of 20*s*. per centum on the sum insured,

If the whole sum insured shall not exceed 100*l*.

0 2 6

And if the whole sum insured shall exceed 100*l*., then for every 100*l*. and also for any fractional part of 100*l*. whereof the same shall consist

0 2 6

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 1*s*. 3*d*. or 2*s*. 6*d*. as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l*. as well as in respect of every full sum of 100*l*. which shall be thereby insured upon any separate and distinct interest.

POLICY of assurance or insurance, by whatever name the same shall be called, whereby any insurance shall be made upon any ship or vessel, or upon any goods, merchandize, or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured, for or upon any other voyage than is hereinbefore specified, or for any certain term or period of time, not exceeding twelve calendar months.

Where the premium or consideration for such insurance, actually and *bona fide* paid, given, or contracted for, shall not exceed the rate of 20*s*. per centum on the sum insured,

If the whole sum insured shall not exceed 100*l*.

0 2 6

And if the whole sum insured shall exceed 100*l*., then for every 100*l*. and also for any fractional part of 100*l*. whereof the same shall consist

0 2 6

And where the premium or consideration for such insurance, actually and *bona fide* paid, given, or contracted for, shall exceed the rate of 20*s*. per centum on the sum insured,

If the whole sum insured shall not exceed 100*l*.

0 5 0

And if the whole sum insured shall exceed 100*l*., then for every 100*l*. and also for any fractional part of 100*l*. whereof the same shall consist

0 5 0

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 2*s*. 6*d*. or 5*s*., as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l*. as well as in respect of every full sum of 100*l*. which shall be thereby insured upon any separate and distinct interest.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance, commonly called a mutual insurance, shall be made, or whereby divers persons shall insure, or agree to insure one another, without any premium or pecuniary consideration, from any loss, damage, or misfortune, that may happen of or to any ship or vessel, or any goods, merchandize, or other property on board of any ship or vessel, or the freight of any ship or vessel, or any other interest in or relating to any ship or vessel which may lawfully be insured,

Upon any voyage from any port or place in the United Kingdom of Great Britain and Ireland, or in the islands of Guernsey, Jersey, Alderney, or Sark, or the Isle of Man, to any other port or place in the said kingdom or islands, or Isle of Man,

For every sum of 100*l.* and also for each and every fractional part of 100*l.* thereby insured to any person or persons . . .

0 2 6

Upon any other voyage whatsoever, or for any certain term or period of time not exceeding twelve calendar months,

For every sum of 100*l.* and also for each and every fractional part of 100*l.* thereby insured to any person or persons . . .

0 5 0

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any other lawful insurance whatsoever, not hereinbefore charged, shall be made upon any property or interest whatever, from loss or damage of any kind,

Where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall not exceed the rate of 20*s.* per centum on the sum insured,

If the whole sum insured shall not exceed 100*l.* . . .

0 2 6

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.*, and also for every fractional part of 100*l.* whereof the same shall consist . . .

0 2 6

And where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall exceed the rate of 20*s.* per centum on the sum insured; and also where the insurance shall be made for any other than a pecuniary consideration,

If the whole sum insured shall not exceed 100*l.* . . .

0 5 0

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.*, and also for any fractional part of 100*l.* whereof the same shall consist . . .

0 5 0

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 2*s.* 6*d.* or 5*s.*, as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l.*, as well as in respect of every full sum of 100*l.* which shall be thereby insured upon any separate and distinct interest.

POWER of ATTORNEY.—See *Letter of Attorney*.

PRECEPT of clare constat, to give seisin of lands or other heritable subjects in Scotland . . .

0 9 0

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of . . .

0 9 0

PRESENTATION by his majesty, his heirs or successors, or by any other patron,

To any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of 10*l.* or upwards, in the king's books . . .

20 0 0

To any other ecclesiastical benefice, dignity, or promotion whatsoever, in England . . .

10 0 0

PROCURATION, deed or other instrument of . . .

1 10 0

And where the same, together with any schedule or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of . . .

1 0 0

PROMISSORY NOTE for the payment to the bearer, on demand, of any sum of moneys,

PROMISSORY NOTE—(Continued.)

£ s. d. 55 Geo. 3, c. 164.

Not exceeding 1 <i>l.</i> 1 <i>s.</i>	0	0	5
Exceeding 1 <i>l.</i> 1 <i>s.</i> and not exceeding 2 <i>l.</i> 2 <i>s.</i>	0	0	10
Exceeding 2 <i>l.</i> 2 <i>s.</i> and not exceeding 5 <i>l.</i> 5 <i>s.</i>	0	1	3
Exceeding 5 <i>l.</i> 5 <i>s.</i> and not exceeding 10 <i>l.</i>	0	1	9
Exceeding 10 <i>l.</i> and not exceeding 20 <i>l.</i>	0	2	0
Exceeding 20 <i>l.</i> and not exceeding 30 <i>l.</i>	0	3	0
Exceeding 30 <i>l.</i> and not exceeding 50 <i>l.</i>	0	5	0
Exceeding 50 <i>l.</i> and not exceeding 100 <i>l.</i>	0	8	6

Which said notes may be re-issued, after payment thereof, as often as shall be thought fit.

PROMISSORY NOTE for the payment, in any other manner than to the bearer on demand, but not exceeding two months after date, or sixty days after sight, of any sum of money,

Amounting to 40 <i>s.</i> and not exceeding 5 <i>l.</i> 5 <i>s.</i>	0	1	0
Exceeding 5 <i>l.</i> 5 <i>s.</i> and not exceeding 20 <i>l.</i>	0	1	6
Exceeding 20 <i>l.</i> and not exceeding 30 <i>l.</i>	0	2	0
Exceeding 30 <i>l.</i> and not exceeding 50 <i>l.</i>	0	2	6
Exceeding 50 <i>l.</i> and not exceeding 100 <i>l.</i>	0	3	6

These notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment either to the bearer on demand, or in any other manner than to the bearer on demand, but not exceeding two months after date, or sixty days after sight, of any sum of money,

Exceeding 100 <i>l.</i> and not exceeding 200 <i>l.</i>	0	4	6
Exceeding 200 <i>l.</i> and not exceeding 300 <i>l.</i>	0	5	0
Exceeding 300 <i>l.</i> and not exceeding 500 <i>l.</i>	0	6	0
Exceeding 500 <i>l.</i> and not exceeding 1000 <i>l.</i>	0	8	6
Exceeding 1000 <i>l.</i> and not exceeding 2000 <i>l.</i>	0	12	6
Exceeding 2000 <i>l.</i> and not exceeding 3000 <i>l.</i>	0	15	0
Exceeding 3000 <i>l.</i>	1	5	0

These notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment to the bearer or otherwise, at any time exceeding two months after date, or sixty days after sight, of any sum of money,

† The in printed act.

Amounting to 40 <i>s.</i> and not exceeding 5 <i>l.</i> 5 <i>s.</i>	0	1	6
Exceeding 5 <i>l.</i> 5 <i>s.</i> and not exceeding 20 <i>l.</i>	0	2	0
Exceeding 20 <i>l.</i> and not exceeding 30 <i>l.</i>	0	2	6
Exceeding 30 <i>l.</i> and not exceeding 50 <i>l.</i>	0	3	6
Exceeding 50 <i>l.</i> and not exceeding 100 <i>l.</i>	0	4	
Exceeding 100 <i>l.</i> and not exceeding 200 <i>l.</i>	0	5	0
Exceeding 200 <i>l.</i> and not exceeding 300 <i>l.</i>	0	6	0
Exceeding 300 <i>l.</i> and not exceeding 500 <i>l.</i>	0	8	6
Exceeding 500 <i>l.</i> and not exceeding 1000 <i>l.</i>	0	12	6
Exceeding 1000 <i>l.</i> and not exceeding 2000 <i>l.</i>	0	15	0
Exceeding 2000 <i>l.</i> and not exceeding 3000 <i>l.</i>	1	5	0
Exceeding 3000 <i>l.</i>	1	10	0

These notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment of any sum of money by instalments, or for the payment of several sums of money at different days or times, so that the whole of the money to be paid shall be definite and certain

The same duty as on a promissory note, payable in less than two months after date for a sum equal to the whole amount of the money to be paid.

And the following instruments shall be deemed and taken to be promissory notes, within the intent and meaning of this schedule: viz.

All notes, promising the payment of any sum or sums of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; if the same shall be made payable to the bearer, or to order, and if the same shall be definite and certain, and not amount in the whole to 20*l.*

And all receipts for money deposited in any bank, or in the hands of any banker or bankers, which shall contain any agreement or memorandum, importing that interest shall be paid for the money so deposited.

Exemptions from the Duties on Promissory Notes.

All notes, promising the payment of any sum or sums of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; where the same shall not be deemed payable to the bearer or to order, and also where the same shall be made payable to the bearer or to order, if the same shall amount to 20*l.*, or be indefinite.

And all other instruments, bearing in any degree the form or style of promissory notes, but which in law shall be deemed special agreements, except those hereby expressly directed to be deemed promissory notes.

But such of the notes and instruments here exempted from the duty on promissory notes shall, nevertheless, be liable to the duty which may attach thereon, as agreements or otherwise.

Exemptions from the preceding and all other Stamp Duties.

All promissory notes for the payment of money, issued by the governor and company of the Bank of England.

PROTEST of any bill of exchange or promissory note, for any sum of money,

Not amounting to 20 <i>l.</i>	0	2	0
Amounting to 20 <i>l.</i> and not amounting to 100 <i>l.</i>	0	3	0
Amounting to 100 <i>l.</i> and not amounting to 500 <i>l.</i>	0	5	0
Amounting to 500 <i>l.</i> or upwards	0	10	0
PROTEST of any other kind	0	5	0

And for every sheet or piece of paper, parchment, or vellum, upon which the same shall be written, after the first, a further progressive duty of

0 5 0

PURCHASE-DEED. See *Conveyance* on the sale of lands, &c.

REAL BURDEN on lands in Scotland, deed creating. See *Mortgage, Disposition*.

RECEIPT or discharge, given for or upon the payment of money, (a)

Amounting to 2 <i>l.</i> and not amounting to 5 <i>l.</i>	0	0	2
Amounting to 5 <i>l.</i> and not amounting to 10 <i>l.</i>	0	0	3
Amounting to 10 <i>l.</i> and not amounting to 20 <i>l.</i>	0	0	6
Amounting to 20 <i>l.</i> and not amounting to 50 <i>l.</i>	0	1	0
Amounting to 50 <i>l.</i> and not amounting to 100 <i>l.</i>	0	1	6
Amounting to 100 <i>l.</i> and not amounting to 200 <i>l.</i>	0	2	6
Amounting to 200 <i>l.</i> and not amounting to 300 <i>l.</i>	0	4	0
Amounting to 300 <i>l.</i> and not amounting to 500 <i>l.</i>	0	5	0
Amounting to 500 <i>l.</i> and not amounting to 1000 <i>l.</i>	0	7	6
Amounting to 1000 <i>l.</i> or upwards	0	10	0

And where any sum of money whatever shall be therein expressed or acknowledged to be received in full of all demands, 0 10 0

And any note, memorandum, or writing whatsoever, given to any person for or upon the payment of money, whereby any sum of money, debt, or demand, or any part of any debt or demand therein specified, and amounting to 2*l.* or upwards, shall be expressed or acknowledged to have been paid, settled, balanced, or otherwise discharged or satisfied, or which shall import or signify any such acknowledgment, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken to be a receipt for a sum of money, of equal amount with the sum, debt, or demand, so expressed or acknowledged to have been paid, settled, balanced, or otherwise discharged or satisfied, within the intent and meaning of this schedule, and shall be charged with a duty accordingly.

And any receipt, or discharge, note, memorandum, or writing whatever, given to any person for or upon the payment of money, which shall contain, import, or signify any general acknowledgment of any debt, account, claim, or demand, debts,

(a) See, in general, 1 *Chit. Col. Stat.* 1008.

RECEIPT—(Continued.)

£ s. d. 35 Geo. 2, c. 184.

accounts, claims, or demands, whereof the amount shall not be therein specified, having been paid, settled, balanced, or otherwise discharged or satisfied, or whereby any sum of money therein mentioned shall be acknowledged to be received in full, or in discharge or satisfaction of any such debt, account, claim, or demand, debts, accounts, claims, or demands, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken to be a receipt for the sum of 1000*l.* or upwards, within the intent and meaning of this schedule, and shall be charged with the duty of 10*s.* accordingly.

And all receipts, discharges, and acknowledgments of the description aforesaid, which shall be given for or upon payments made by or with any bills of exchange, drafts, promissory notes, or other securities for money, shall be deemed and taken to be receipts given upon the payment of money, within the intent and meaning of this schedule.

Exemptions from the preceding Duties on Receipts.

Receipts exempted from stamp duty by any act or acts relating to the assessed taxes.

Receipts or discharges given by the treasurer of the navy, for any money imprested to or received by him, for the service of the navy.

Receipts or discharges given by any agent, for money imprested to him, on account of the pay of the army or ordnance.

Receipts or discharges given by any officer, seaman, marine, or soldier, or their representatives respectively, for or on account of any wages, pay, or pension, due from the Navy Office, Army Pay Office, or Ordnance Office.

Receipts or discharges given for the consideration money, for the purchase of any share in any of the government and Parliamentary stocks or funds, or in the stocks or funds of the governor and company of the Bank of England, or of the East-India Company, or South-Sea Company, and for any dividend paid on any share of the said stocks or funds respectively.

Receipts or discharges given for any principal money or interest due on exchequer bills.

Receipts given for money deposited in the Bank of England, or in the Bank of Scotland, or Royal Bank of Scotland, or in the Bank of the British Linen Company in Scotland, or in the hands of any banker or bankers, to be accounted for on demand; provided the same be not expressed to be received of or by the hands of any other than the person or persons to whom the same is to be accounted for. But if with interest—*See Promissory Note.*

Receipts or discharges written upon promissory notes, bills of exchange, drafts or orders for the payment of money, duly stamped according to the laws in force at the date thereof; or upon bills of exchange drawn out of but payable in Great Britain.

Receipts or discharges given upon bills or notes of the governor and company of the Bank of England.

Letters by the general post, acknowledging the safe arrival of any bills of exchange, promissory notes, or other securities for money.

Receipts or discharges indorsed or otherwise written upon or contained in any bond, mortgage, or other security, or any conveyance, deed, or instrument whatever, duly stamped according to the laws in force at the date thereof, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby secured.

Releases or discharges for money, by deeds duly stamped according to the laws in force at the date thereof.

Receipts or discharges given for drawbacks or bounties upon the exportation of any goods or merchandize from Great Britain.

Receipts or discharges for the return of any duties of customs upon certificates of over entry.

Receipts or acknowledgments of payment indorsed upon any bills, orders, remittance-bills, or remittance-certificates, drawn by commissioned officers, masters, and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the act passed in the thirty-fifth year of his majesty's reign, for the more expeditious payment of the wages and pay of certain officers belonging to the navy.

Receipts or acknowledgments of payment indorsed upon any bills, drawn pursuant to any former act or acts of Parliament, by the commissioners of the navy, or by the commissioners for victualling the navy, or by the commissioners for managing the transport service, and taking care of sick and wounded seamen, upon and payable by the treasurer of the navy.

Receipts given solely for the duty on insurances against fire; and receipts given for the premium and duty on such insurances, to be liable only to the receipt duty in respect of the premium.

See also the general exemptions at the end of this part of the schedule.

RECOGNIZANCE, statute merchant, and statute staple, entered into as a security for the payment of any sum or sums of money, annuity or annuities, or for the transfer of any share or shares in any of the government or Parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East India Company, or of the South Sea Company.

Where such payment or transfer shall not be already secured by a bond or mortgage, or by some other instrument hereby charged with the same duty as a bond or mortgage } *The same duty or duties as on a bond given for the like purpose in England.*

And where such payment or transfer shall be already secured as above mentioned

1 0 0

RECOGNIZANCE, statute merchant, and statute staple, entered into as a security for the performance of any covenant, contract, or agreement; or for the due execution of any office or trust; or for rendering a due account of money received or to be received; or for indemnifying any person or persons against any matter or thing

1 15 0

And where any such recognizance or statute as aforesaid, together with any schedule or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

1 5 0

REGISTER, or entry of the degree of a barrister at law, taken in either of the inns of court in England.—See *Admission*.

REGISTER or entry of degrees taken in the Universities of Great Britain.—See *Admission*.

RELEASE upon the sale of any property.—See *Conveyance*.

RELEASE and renunciation of lands or other property, real or personal, heritable or moveable, or of any right or interest therein; any deed or instrument of, not otherwise charged in this schedule, nor expressly exempted from all stamp duty

1 15 0

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

1 5 0

RENUNCIATION upon the sale of any property.—See *Conveyance*.

RENUNCIATION of any right or interest in any property, otherwise than upon a sale.—See *Release*.

RESIGNATION; principal or original instrument of resignation, or

RESIGNATION—(*Continued.*)

£ s. d. 55 Geo. 3, c. 184.

service or cognition of heirs, or charter or seisin of any houses, lands, or other heritable subjects in Scotland, holding burgage, or of burgage tenure

0 9 0

RESIGNATION; instrument of resignation of any lands or other heritable subjects in Scotland, not of burgage tenure

0 9 0

And, where any of the said instruments shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

0 9 0

REVOCATION of any use or trust, uses or trusts, of or concerning any estate or property, real or personal, where made by any writing, not being a deed or will

1 15 0

And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

1 5 0

If made by deed. See *Deed*.

SCHEDULE, inventory, or catalogue of any lands, hereditaments, or heritable subjects, or of any furniture, fixtures, or other goods or effects; or containing the terms and conditions of any proposed sale, lease, or tack, or the conditions and regulations for the cultivation or management of any farm, lands, or other property, leased or agreed to be leased; or containing any other matter or matters of contract or stipulation whatsoever; which shall be referred to in or by, and be intended to be used or given in evidence as part of, or as material to, any agreement, lease, tack, bond, deed, or other instrument, charged with any duty in this schedule, but which shall be separate and distinct from, and not indorsed on or annexed to such agreement, lease, tack, bond, deed, or other instrument

1 5 0

And if the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

1 5 0

Exemptions from the preceding and all other Stamp Duties.

Printed proposals, published by any corporation or company, respecting insurances, and which shall be referred to in or by any policy or instrument of insurance issued by such corporation or company.

SEISIN—Instrument of seisin given upon any charter, precept of clare constat, or precept from chancery, or upon any wadset, heritable bond, disposition, apprising, adjudication, or otherwise, of any lands or heritable subjects in Scotland, not of burgage tenure

0 9 0

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of

0 9 0

SETTLEMENT—Any deed or instrument, whether voluntary or gratuitous, or upon any good or valuable consideration, other than a bond *de pecuniary* consideration, whereby any definite and certain principal sum or sums of money (whether charged or chargeable on lands or other hereditaments, or heritable subjects or not, or to be laid out in the purchase of lands or other hereditaments, or heritable subjects or not, and if charged or chargeable on lands or other hereditaments, or heritable subjects, whether to be raised at all events or not); or any definite and certain share or shares in any of the government or Parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East-India Company, or of the South-Sea Company, shall be settled, or agreed to be settled, upon or for the benefit of any person or persons, either in possession or reversion, either absolutely, or conditionally, or contingently, or for life, or other partial interest, or in any other manner whatsoever:

If such sum or sums of money, or the value of such share or shares in all or any of the said stocks or funds, or both, shall not amount to 1000/.

1 15 0

55 G. O. 2, c. 181. SETTLEMENT—(Continued.)

SETTLEMENT—(Continued.)	£	s.	d.
And if the same shall amount to 1000 <i>l.</i> and not amount to 2000 <i>l.</i>	2	0	0
And if the same shall amount to 2000 <i>l.</i> and not amount to 3000 <i>l.</i>	3	0	0
And if the same shall amount to 3000 <i>l.</i> and not amount to 4000 <i>l.</i>	4	0	0
And if the same shall amount to 4000 <i>l.</i> and not amount to 5000 <i>l.</i>	5	0	0
And if the same shall amount to 5000 <i>l.</i> and not amount to 7000 <i>l.</i>	7	0	0
And if the same shall amount to 7000 <i>l.</i> and not amount to 9000 <i>l.</i>	9	0	0
And if the same shall amount to 9000 <i>l.</i> and not amount to 12,000 <i>l.</i>	12	0	0
And if the same shall amount to 12,000 <i>l.</i> and not amount to 15,000 <i>l.</i>	15	0	0
And if the same shall amount to 15,000 <i>l.</i> , and not amount to 20,000 <i>l.</i>	20	0	0
And if the same shall amount to 20,000 <i>l.</i> or upwards	25	0	0
And where any such deed or instrument as last mentioned, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of	1	5	0
And for any duplicate of any such deed or instrument as last mentioned	{ The same duty or duties.		
<i>Exemptions from the preceding ad valorem Duties on Settlements.</i>			
Bonds, mortgages, and other securities operating as settlements, if chargeable with the <i>ad valorem</i> duties on bonds and mortgages hereinbefore granted.			
Deeds or instruments of appointment or apportionment, in execution of powers given by any previous settlement, deed, or will, to or in favour of persons specially named or described as the objects of such powers.			
Deeds or instruments, merely declaring the trusts of any money or stock, pursuant to any previous settlement, deed, or will, or for securing any gifts or dispositions made by any previous settlement, deed, or will.			
Wills, testaments, and testamentary instruments, and dispositions <i>mortis causa</i> of every description.			
SPECIFICATION, to be enrolled or recorded, of any discovery or invention for which a patent shall be obtained	5	0	0
And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of	1	0	0
SURRENDER upon the sale of lands or other property. See <i>Conveyance</i> .			
SURRENDER (not otherwise charged in this schedule nor expressly exempted from all stamp duty) of any term or terms of years, or of any freehold or uncertain interest, in any lands, hereditaments, or heritable subjects, not being of copyhold or customary tenure	1	15	0
And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of	1	5	0
SURRENDER of copyhold lands or tenements. See <i>Copyhold and Mortgage</i> .			
TACK of LANDS, &c. in Scotland, belonging to the crown. See <i>Grant</i> .			
TACK of LANDS, &c. in Scotland, not belonging to the crown. See <i>Lease</i> .			
TACK in security. See <i>Mortgage</i> .			
TESTIMONIAL or certificate of the admission of any person, to the degree of a bachelor of arts, in either of the universities in England	3	0	0
TESTIMONIAL or certificate of the admission of any person, to any other degree, in either of the said universities	10	0	0
TRANSFER of any share in the stock and funds of the governor and			

TRANSFER—(Continued.)

£ s. d. 55 Geo. 3, c. 181.

company of the Bank of England, or of the South-Sea Company, whether upon a sale or otherwise	0	7	9
TRANSFER of any share in the stock and funds of the East-India Company, whether upon a sale or otherwise	1	10	0
TRANSFER of any share or shares in the stock and funds of any other corporation, company, or society whatever, upon the sale thereof, or by way of mortgage or security. See <i>Conveyance, Mortgage</i> .			
TRANSFER of any share or shares in the stock and funds of any other corporation, company, or society whatever, not otherwise charged under the head of mortgage, or of conveyance upon the sale of any property	1	10	0
TRANSFER upon the sale of any other property. See <i>Conveyance</i> .			
TRANSFER of mortgage, wadset, or other security. See <i>Mortgage</i> .			
WADSET. See <i>Mortgage</i> .			
WARRANT of ATTORNEY (with or without a release of errors) to confess and enter up a judgment in any of his majesty's courts at Westminster, or in any of the courts of the great sessions in Wales, or of the counties palatine of Chester, Lancaster, and Durham; which shall be given as a security for the payment of any sum or sums of money, or for the transfer of any share or shares in any of the government or Parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East-India Company, or of the South-Sea Company	The same duty as on a bond for the like purpose.		
Save and except where such payment or transfer shall be already secured by a bond, mortgage, or other security, which shall have paid the <i>ad valorem</i> duty on bonds or mortgages imposed in this schedule, or by the act of the forty-fourth, or the act of the forty-eighth year of his majesty's reign before mentioned; and also except where the warrant of attorney shall be given for securing any sum or sums of money, for which the person giving the same shall be in custody under an arrest; and in those cases a duty of			
WARRANT or ORDER beneficial, under the sign manual of his majesty, his heirs, or successors, except where the same shall be for the service of the navy, army, or ordnance	1	0	0
And where the same shall be for the service of the navy, army, or ordnance	1	10	0
And where several persons shall be separately and distinctly (and not jointly) benefited by one warrant, the proper duty shall be charged in respect of each such person.	0	12	6

General Exemptions from all Stamp Duties.

- All bonds, contracts, mortgages, conveyances, deeds, and instruments whatever exempted from stamp duty by the act of the seventeenth year of his majesty's reign, c. 53, or any other act or acts of Parliament now in force, for promoting the residence of the parochial clergy, by making provision for building, repairing, or purchasing houses and other buildings, for the use of their benefices.
- All affidavits, contracts, mortgages, conveyances, deeds, and instruments whatever, exempted from stamp duty by the act of the forty-second year of his majesty's reign, c. 116, or any other act or acts of Parliament now in force relating to the redemption and sale of the land-tax.
- All transfers of shares in the government or Parliamentary stocks or funds.
- All grants, leases, and other conveyances and instruments, exempted from stamp duty by any act or acts of Parliament now in force relating to the land revenues of the crown.
- All bonds, contracts, and assignments, relating to the transportation of convicts.

PART THE SECOND.

Containing the Duties on Law Proceedings.

Which duties are to be paid and payable in England, for and in respect of every skin, sheet, or piece of vellum, parchment, or paper, upon which the several

instruments, matters, and things herein charged, shall be respectively written or printed; except where the duties are imposed, according to the number of words therein contained, or are expressly charged in any other manner. And all the instruments, matters, and things herein charged with a duty in respect of every skin, sheet, or piece of vellum, parchment, or paper, upon which the same shall be written or printed, shall respectively be written or printed upon vellum, parchment, or paper, and in such and the same manner and form, as the like instruments, matters, or things, have been heretofore accustomed to be, or are now usually written or printed. And where a court of law or equity is mentioned generally, the same shall be taken to mean not only the courts at Westminster, but also the several courts of law or equity of the great sessions in Wales, and in the counties palatine of Chester, Lancaster, and Durham, or elsewhere in England.

[N.B. *The matters in this schedule are repealed by the 5 Geo. IV. c. 41, in the schedule to that act, excepting the items following.*]

	Duty.
£ s. d.	
EXEMPLIFICATION, under the seal of any of the said courts, of any record or proceeding therein	3 0 0
II. PROCEEDINGS in the ecclesiastical courts, and in the high court of delegates, in ecclesiastical matters in England.	
EXEMPLIFICATION under the seal of any of the said courts, of any record or proceeding therein	3 0 0
III. PROCEEDINGS in the courts of law and equity at Westminster, including the court of the duchy of Lancaster, and in other courts in England, and the offices belonging thereto, and also before the lord high chancellor, or the lord keeper, or commissioners for the custody of the great seal, in matters of bankruptcy and lunacy.	
EXEMPLIFICATION, under the seal of any court of law or equity whatever, of any record or proceeding therein (except exemplifications under the great seal charged in the first part of this schedule)	3 0 0
GRANT of the custody of the person or estate of any lunatic	2 0 0
INDENTURES or chirograph of a fine levied in any court, for each part or indenture	0 10 0
WARRANT of attorney, not otherwise charged in the first part of this schedule	1 0 0
WRIT of covenant for levying a fine	2 0 0
WRIT of entry for suffering a common recovery	2 0 0
WRIT of error	1 0 0

General Exemptions from all Stamp Duties.

Warrants, mandates, or authorities, to commence, carry on, or to defend any actions, suits, or prosecutions in any court, where the debt, damage, or thing claimed or demanded, shall not amount to or be of the value of 40s.

Warrants, mandates, or authorities to commence, carry on, or defend any prosecutions or proceedings upon indictments, or upon any information, suit, writ, or process, in the name of his majesty, his heirs or successors, or at the instance of the attorney-general of England, lord advocate of Scotland, or other officer legally authorized to prosecute or sue in the name or for the interest of his majesty, his heirs or successors.

But these exemptions are not to extend to informations in the nature of *quo warranto*, filed by his majesty's coroner and attorney in the Court of King's Bench; nor to informations in courts of equity, at the relation of private persons; nor to informations where any other person than his majesty, his heirs or successors, shall be entitled to any penalty or forfeiture, or any share thereof.

All proceedings for or on behalf of any person legally admitted to sue or defend in *forma pauperis*; and all proceedings of courts martial; and all proceedings in criminal suits and prosecutions whatsoever.

All orders, decrees, and proceedings of or before any commissioners of sewers, and of or in the stannary courts in England.

All summonses, attachments, executions, and other proceedings in or issuing out of any of the courts established for the recovery of debts not exceeding 5*l.*, commonly called courts of requests, in England.

All warrants to sue and defend in the courts baron of any honours or manors in

England, which hold pleas in actions or suits for any debt or damages not exceeding 5*l*.; and all plaints, summonses, executions, writs, and other proceedings in or issuing out of such courts. 55 Geo. 3, c. 184

All proceedings in the courts called, or commonly known by the name of, small debts courts in Scotland.

And all proceedings under the Scotch statute relative to the aliment of poor prisoners, or under the act of sederunt of the court of session in Scotland, relative to the liberation of prisoners on account of sickness.

All petitions, proceedings, and copies, exempted from stamp duty by any act or acts of Parliament, relating to abuses of trusts for charitable purposes.

PART THE THIRD,

Containing the Duties on Probates of Wills and Letters of Administration; on Confirmations of Testaments, testamentary and dative; on Inventories to be exhibited in the Commissary Courts in Scotland; and on Legacies out of real or personal, heritable, or moveable Estate; and on Successions to personal or moveable Estates upon Intestacy.

PROBATE of a will, and letters of administration with a will annexed, to be granted in England;

CONFIRMATION of any testament testamentary, or eik thereto, to be expedited in any commissary court in Scotland, where the deceased shall have died before or upon the 10th day of October, 1808, and subsequent to the 10th day of October, 1804;

INVENTORY to be exhibited and recorded in any commissary court in Scotland, of the estate and effects of any person deceased, who shall have died after the 10th day of October, 1808, and have left any testament or testamentary disposition of his or her personal or moveable estate and effects, or any part thereof;

Where the estate and effects for or in respect of such probate, letters of administration, confirmation or eik respectively, shall be granted or expedited, or whereof such inventory shall be exhibited and recorded, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, shall be—

		£	s.
above the value of	20 <i>l</i> . and under the value of	100 <i>l</i> .	0 10
of the value of	100 <i>l</i> . and under the value of	200 <i>l</i> .	2 0
of the value of	200 <i>l</i> . and under the value of	300 <i>l</i> .	5 0
of the value of	300 <i>l</i> . and under the value of	450 <i>l</i> .	8 0
of the value of	450 <i>l</i> . and under the value of	600 <i>l</i> .	11 0
of the value of	600 <i>l</i> . and under the value of	800 <i>l</i> .	15 0
of the value of	800 <i>l</i> . and under the value of	1000 <i>l</i> .	22 0
of the value of	1000 <i>l</i> . and under the value of	1500 <i>l</i> .	30 0
of the value of	1500 <i>l</i> . and under the value of	2000 <i>l</i> .	40 0
of the value of	2000 <i>l</i> . and under the value of	3000 <i>l</i> .	50 0
of the value of	3000 <i>l</i> . and under the value of	4000 <i>l</i> .	60 0
of the value of	4000 <i>l</i> . and under the value of	5000 <i>l</i> .	80 0
of the value of	5000 <i>l</i> . and under the value of	6000 <i>l</i> .	100 0
of the value of	6000 <i>l</i> . and under the value of	7000 <i>l</i> .	120 0
of the value of	7000 <i>l</i> . and under the value of	8000 <i>l</i> .	140 0
of the value of	8000 <i>l</i> . and under the value of	9000 <i>l</i> .	160 0
of the value of	9000 <i>l</i> . and under the value of	10,000 <i>l</i> .	180 0
of the value of	10,000 <i>l</i> . and under the value of	12,000 <i>l</i> .	200 0
of the value of	12,000 <i>l</i> . and under the value of	14,000 <i>l</i> .	220 0
of the value of	14,000 <i>l</i> . and under the value of	16,000 <i>l</i> .	250 0
of the value of	16,000 <i>l</i> . and under the value of	18,000 <i>l</i> .	280 0
of the value of	18,000 <i>l</i> . and under the value of	20,000 <i>l</i> .	310 0
of the value of	20,000 <i>l</i> . and under the value of	25,000 <i>l</i> .	350 0
of the value of	25,000 <i>l</i> . and under the value of	30,000 <i>l</i> .	400 0
of the value of	30,000 <i>l</i> . and under the value of	35,000 <i>l</i> .	450 0
of the value of	35,000 <i>l</i> . and under the value of	40,000 <i>l</i> .	52 <i>½</i> 0
of the value of	40,000 <i>l</i> . and under the value of	45,000 <i>l</i> .	600 0
of the value of	45,000 <i>l</i> . and under the value of	50,000 <i>l</i> .	675 0
of the value of	50,000 <i>l</i> . and under the value of	60,000 <i>l</i> .	750 0
of the value of	60,000 <i>l</i> . and under the value of	70,000 <i>l</i> .	900 0
of the value of	70,000 <i>l</i> . and under the value of	80,000 <i>l</i> .	1050 0
of the value of	80,000 <i>l</i> . and under the value of	90,000 <i>l</i> .	1200 0

55 Geo. 3, c. 184. INVENTORY—(Continued.)

		£	s.
of the value of	90,000 <i>l.</i> and under the value of	100,000 <i>l.</i>	1350 0
of the value of	100,000 <i>l.</i> and under the value of	120,000 <i>l.</i>	1500 0
of the value of	120,000 <i>l.</i> and under the value of	140,000 <i>l.</i>	1800 0
of the value of	140,000 <i>l.</i> and under the value of	160,000 <i>l.</i>	2100 0
of the value of	160,000 <i>l.</i> and under the value of	180,000 <i>l.</i>	2400 0
of the value of	180,000 <i>l.</i> and under the value of	200,000 <i>l.</i>	2700 0
of the value of	200,000 <i>l.</i> and under the value of	250,000 <i>l.</i>	3000 0
of the value of	250,000 <i>l.</i> and under the value of	300,000 <i>l.</i>	3750 0
of the value of	300,000 <i>l.</i> and under the value of	350,000 <i>l.</i>	4500 0
of the value of	350,000 <i>l.</i> and under the value of	400,000 <i>l.</i>	5250 0
of the value of	400,000 <i>l.</i> and under the value of	500,000 <i>l.</i>	6000 0
of the value of	500,000 <i>l.</i> and under the value of	600,000 <i>l.</i>	7500 0
of the value of	600,000 <i>l.</i> and under the value of	700,000 <i>l.</i>	9000 0
of the value of	700,000 <i>l.</i> and under the value of	800,000 <i>l.</i>	10,500 0
of the value of	800,000 <i>l.</i> and under the value of	900,000 <i>l.</i>	12,000 0
of the value of	900,000 <i>l.</i> and under the value of	1,000,000 <i>l.</i>	13,500 0
of the value of	1,000,000 <i>l.</i> and upwards.		15,000 0

LETTERS OF ADMINISTRATION, without a will annexed, to be granted in England;

CONFIRMATION of any TESTAMENT dative, to be expedited in any commissary court in Scotland, where the deceased shall have died before or upon the 10th day of October, 1808, and subsequent to the 10th day of October, 1804;

INVENTORY to be exhibited and recorded in any commissary court in Scotland, of the estate and effects of any person deceased, who shall have died after the 10th day of October, 1808, without leaving any testament or testamentary disposition of his or her personal or moveable estate or effects, or any part thereof;

Where the estate and effects for or in respect of which such letters of administration or confirmation respectively shall be granted or expedited, or whereof such inventory shall be exhibited and recorded, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, shall be

		£	s.
above the value of	20 <i>l.</i> and under the value of	50 <i>l.</i>	0 10
of the value of	50 <i>l.</i> and under the value of	100 <i>l.</i>	1 0
of the value of	100 <i>l.</i> and under the value of	200 <i>l.</i>	3 0
of the value of	200 <i>l.</i> and under the value of	300 <i>l.</i>	8 0
of the value of	300 <i>l.</i> and under the value of	450 <i>l.</i>	11 0
of the value of	450 <i>l.</i> and under the value of	600 <i>l.</i>	15 0
of the value of	600 <i>l.</i> and under the value of	800 <i>l.</i>	22 0
of the value of	800 <i>l.</i> and under the value of	1000 <i>l.</i>	30 0
of the value of	1000 <i>l.</i> and under the value of	1500 <i>l.</i>	45 0
of the value of	1500 <i>l.</i> and under the value of	2000 <i>l.</i>	60 0
of the value of	2000 <i>l.</i> and under the value of	3000 <i>l.</i>	75 0
of the value of	3000 <i>l.</i> and under the value of	4000 <i>l.</i>	90 0
of the value of	4000 <i>l.</i> and under the value of	5000 <i>l.</i>	120 0
of the value of	5000 <i>l.</i> and under the value of	6000 <i>l.</i>	150 0
of the value of	6000 <i>l.</i> and under the value of	7000 <i>l.</i>	180 0
of the value of	7000 <i>l.</i> and under the value of	8000 <i>l.</i>	210 0
of the value of	8000 <i>l.</i> and under the value of	9000 <i>l.</i>	240 0
of the value of	9000 <i>l.</i> and under the value of	10,000 <i>l.</i>	270 0
of the value of	10,000 <i>l.</i> and under the value of	12,000 <i>l.</i>	300 0
of the value of	12,000 <i>l.</i> and under the value of	14,000 <i>l.</i>	330 0
of the value of	14,000 <i>l.</i> and under the value of	16,000 <i>l.</i>	375 0
of the value of	16,000 <i>l.</i> and under the value of	18,000 <i>l.</i>	420 0
of the value of	18,000 <i>l.</i> and under the value of	20,000 <i>l.</i>	465 0
of the value of	20,000 <i>l.</i> and under the value of	25,000 <i>l.</i>	525 0
of the value of	25,000 <i>l.</i> and under the value of	30,000 <i>l.</i>	600 0
of the value of	30,000 <i>l.</i> and under the value of	35,000 <i>l.</i>	675 0
of the value of	35,000 <i>l.</i> and under the value of	40,000 <i>l.</i>	785 0
of the value of	40,000 <i>l.</i> and under the value of	45,000 <i>l.</i>	900 0
of the value of	45,000 <i>l.</i> and under the value of	50,000 <i>l.</i>	1010 0
of the value of	50,000 <i>l.</i> and under the value of	60,000 <i>l.</i>	1125 0
of the value of	60,000 <i>l.</i> and under the value of	70,000 <i>l.</i>	1350 0

INVENTORY—(Continued.)

	£	s.	58 Geo. 3, c. 184.
of the value of 70,000 <i>l.</i> and under the value of 80,000 <i>l.</i>	1575	0	
of the value of 80,000 <i>l.</i> and under the value of 90,000 <i>l.</i>	1800	0	
of the value of 90,000 <i>l.</i> and under the value of 100,000 <i>l.</i>	2025	0	
of the value of 100,000 <i>l.</i> and under the value of 120,000 <i>l.</i>	2250	0	
of the value of 120,000 <i>l.</i> and under the value of 140,000 <i>l.</i>	2700	0	
of the value of 140,000 <i>l.</i> and under the value of 160,000 <i>l.</i>	3150	0	
of the value of 160,000 <i>l.</i> and under the value of 180,000 <i>l.</i>	3600	0	
of the value of 180,000 <i>l.</i> and under the value of 200,000 <i>l.</i>	4050	0	
of the value of 200,000 <i>l.</i> and under the value of 250,000 <i>l.</i>	4500	0	
of the value of 250,000 <i>l.</i> and under the value of 300,000 <i>l.</i>	5625	0	
of the value of 300,000 <i>l.</i> and under the value of 350,000 <i>l.</i>	6750	0	
of the value of 350,000 <i>l.</i> and under the value of 400,000 <i>l.</i>	7875	0	
of the value of 400,000 <i>l.</i> and under the value of 500,000 <i>l.</i>	9000	0	
of the value of 500,000 <i>l.</i> and under the value of 600,000 <i>l.</i>	11,250	0	
of the value of 600,000 <i>l.</i> and under the value of 700,000 <i>l.</i>	13,500	0	
of the value of 700,000 <i>l.</i> and under the value of 800,000 <i>l.</i>	15,750	0	
of the value of 800,000 <i>l.</i> and under the value of 900,000 <i>l.</i>	18,000	0	
of the value of 900,000 <i>l.</i> and under the value of 1,000,000 <i>l.</i>	22,250	0	
of the value of 1,000,000 <i>l.</i> and upwards	22,500	0	

Exemptions from all Stamp Duties.

Probate of will, letters of administration, confirmation of testament, and eik thereto, and inventory of the effects of any common seaman, marine, or soldier, who shall be slain or die in the service of his majesty, his heirs, or successors

Additional inventory to be exhibited and recorded in any commissary court in Scotland; where the same shall not be liable to a duty of greater amount than the duty already paid upon any former inventory exhibited and recorded of the estate and effects of the same person.

LEGACIES and SUCCESSIONS to personable or moveable estate upon intestacy.

I. Where the testator, testatrix, or intestate, died before or upon the 5th day of April, 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount or value of 20*l.* or upwards, given by any will or testamentary instrument of any person who died before or upon the 5th day of April, 1805, out of his or her personal or moveable estate, and which shall be paid, delivered, retained, satisfied, or discharged, after the 31st day of August, 1815.

Also for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person who died before or upon the 5th day of April, 1805 (after deducting debts, funeral expenses, legacies, and other charges first payable thereout), whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue, or share of residue, shall be of the amount or value of 20*l.* or upwards, and where the same shall be paid, delivered, retained, satisfied, or discharged, after the 31st day of August, 1815.

Where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased; a duty at and after the rate of 2*l.* 10*s.* per centum, on the amount or value thereof

Per cent.
£ 10 0

Where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased; a duty at and after the rate of 4*l.* per centum on the amount or value thereof

Per cent.
£ 4 0 0

Where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit

of a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased, a duty at and after the rate of 5*l.* per centum on the amount or value thereof . . .

Per cent.
5 0 0

And where any such legacy, or residue, or share of such residue shall have been given, or have devolved, to or for the benefit of any person, in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased, a duty at and after the rate of 8*l.* per centum on the amount or value thereof . . .

Per cent.
8 0 0

II. Where the testator, testatrix, or intestate, shall have died after the 5th day of April, 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount or value of 20*l.* or upwards, given by any will or testamentary instrument, of any person, who shall have died after the 5th day of April, 1805, either out of his or her personal or moveable estate, or out of or charged upon his or her real or heritable estate, or out of any monies to arise by the sale, mortgage, or other disposition of his or her real or heritable estate, or any part thereof, and which shall be paid, delivered, retained, satisfied, or discharged after the 31st day of August, 1815;

Also, for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person, who shall have died after the 5th day of April, 1805 (after deducting debts, funeral expenses, legacies, and other charges first payable thereout), whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue, or share of residue, shall be of the amount or value of 20*l.* or upwards, and where the same shall be paid, delivered, retained, satisfied, or discharged, after the 31st day of August, 1815;

And also for the clear residue (when given to one person) and for every share of the clear residue (when given to two or more persons) of the monies to arise from the sale, mortgage, or other disposition, of any real or heritable estate directed to be sold, mortgaged, or otherwise disposed of, by any will or testamentary instrument, of any person, who shall have died after the 5th day of April, 1805, (after deducting debts, funeral expenses, legacies, and other charges first made payable thereout, if any) where such residue, or share of residue, shall amount to 20*l.* or upwards, and where the same shall be paid, retained, or discharged after the 31st day of August, 1815;

Where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a child of the deceased, or any descendant of a child of the deceased, or to or for the benefit of the father or mother, or any lineal ancestor of the deceased; a duty at and after the rate of 1*l.* per centum on the amount or value thereof . . .

Per cent.
1 0 0

Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased; a duty at and after the rate of 3*l.* per centum on the amount or value thereof . . .

Per cent.
3 0 0

Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased; a duty at and after the rate of 5*l.* per centum on the amount or value thereof . . .

Per cent.
5 0 0

Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of a grandfather or grandmother of the

LEGACIES and SUCCESSIONS—(Continued.)

£ s. d. 55 Geo. 3, c. 184.

deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased; a duty at and after the rate of 6l. per centum on the amount or value thereof . . .	Per cent. 6 0 0
And where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of any person, in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased; a duty at and after the rate of 10l. per centum on the amount or value thereof . . .	Per cent. 10 0 0
And all gifts of annuities, or by way of annuity, or of any other partial benefit or interest, out of any such estate or effects as aforesaid, shall be deemed legacies within the intent and meaning of this schedule.	
And where any legatee shall take two or more distinct legacies or benefits, under any will or testamentary instrument, which shall together be of the amount or value of 20l., each shall be charged with duty, though each or either may be separately under that amount or value.	

Exemptions.

Legacies, and residues, or shares of residue, of any such estate or effects as aforesaid, given or devolving to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family.
And all legacies which were exempted from duty by the act passed in the 39th year of Geo. III. c. 73, for exempting certain specific legacies given to bodies corporate, or other public bodies, from the payment of duty.

Starch. See *Excise*, Vol. II.

Starr. See *Went*, Vol. I.

State, Acts of, how proved, see *Evidence*, Vol. II. p. 37.—
Matters of, when privileged from being stated in Evidence, see Evidence, Vol. II. p. 69.

Stationers. See *Almanack*, Vol. I. p. 128; *Newspapers*, Vol. III.; *Printers, ante*; *Stamps, ante*.

Statute Duty. See *Highways*, Vol. III.

Statutes.

Preliminary observations.

IT is said by the elegant and able writer of the *Commentaries*, Vol. I. p. 57, that the municipal law of England, or the rule of civil conduct prescribed to the inhabitants of this kingdom, may, with sufficient propriety, be divided into two kinds: viz. the *lex non scripta*, the unwritten or *common law*, and the *lex scripta*, the written or *statute law*.

Common law. (b)

COMMON LAW—The *lex non scripta*, or unwritten law, includes not only *general customs*, or the *common law*, properly so called, but also the particular customs of certain parts of the kingdom, and likewise those *particular laws* that are by custom observed only in certain courts and jurisdictions. It is not to be supposed, however, that this *lex non scripta*, or common law, is not evidenced by written documents; for a considerable portion of it is so. See 1 *Bla. Com.* 57, 58.

Three kinds of.

This unwritten or common law is distinguishable into three kinds: 1. *General Customs*, which are the universal rule of the *whole kingdom*, and form the common law, in its stricter and more usual signification. 2. *Particular Customs*, which, for the most part, affect only the inhabitants of particular districts. 3. *Certain particular Laws*, which by custom are adopted and used by some particular courts of petty, general, and exclusive jurisdiction. 1 *Bla. Com.* 67.

(1.) Common law or general customs.

1st. *As to General Customs, or the Common Law, properly so called*—This is that law by which proceedings and determinations in the king's ordinary courts of justice are guided and directed. Amongst other things, *Blackstone* observes, that this, for the most part, settles the solemnities and obligations of contracts; the rules of expounding wills, deeds, and acts of Parliament; the respective remedies of civil injuries; the several species of temporal offences, with the manner and degree of punishment; and an infinite number of minuter particulars, which diffuse themselves as extensively as the ordinary distribution of common justice requires. Thus, for example, amongst other things, that there shall be four superior courts of record—the Chancery, the King's Bench, the Common Pleas, and the Exchequer; that a deed is of no validity unless sealed and delivered; that breaking the peace is an offence, and punishable by fine and imprisonment, &c.

These customs and maxims are to be known, and their validity is to be determined, by the judges in the several courts of justice. They are the repositories of the law—the living oracles who must decide in all cases of doubt, and who are bound by an oath to decide according to the law of the land. 1 *Bla. Com.* 69.

The common law is as absolute as parliamentary law, and must be as rigidly observed.

(2.) Particular customs.

2d. *As to Particular Customs or Laws which affect only the Inhabitants of Particular Districts*—These are the remains of that multitude of local customs, out of which the common law, as it now stands, was collected at first by King Alfred, and afterwards by King Edgar and Edward the Confessor; each district mutually sacrificing some of its own special usages, in order that the whole kingdom might enjoy the benefit of one uniform and universal system of laws. But, for reasons that have been now long forgotten, particular counties, cities, towns, manors, and lordships, were very early indulged with the privilege of abiding by their own customs, in contradistinction to the rest of the nation at large; which privilege is confirmed to them by several acts of Parliament. *Mag. Cart.* 9 Hen. III. c. 9; 1 Edw. III. st. 2, c. 9; 14 Edw. III. st. 1, c. 1; 2 Hen. IV. c. 1; 1 *Bla. Com.* 74.

(a) As to the effect and proof in evidence of statutes, see *Evidence*, Vol. II. p. 36.

(b) The origin of the common law is

said by Sir Matthew Hale (*Hale, Hist. Com. Law*, 55) to be as undiscoverable as the head of the Nile.

Such is the custom of gavelkind in Kent, and some other parts of the kingdom. Such is the custom that prevails in divers ancient boroughs, and therefore called borough-English, that the youngest son shall inherit the estate, in preference to all his elder brothers, &c. Such, also, are the special and particular customs of manors, of which every one has more or less, and which bind all the copyhold and customary tenants that hold of the said manors. Such, likewise, is the custom of holding divers inferior courts, with power of trying causes, in cities and trading towns, the right of holding which, when no royal grant can be shown, depends entirely upon immemorial and established usage. Such, lastly, are many particular customs within the city of London, with regard to trade, apprentices, widows, orphans, and a variety of other matters. All these are contrary to the general law of the land, and are good only by special usage; though the customs of London are also confirmed by act of Parliament. 8 Rep. 126; Cro. Car. 347.

COMMON LAW.

To this head may most properly be referred a particular system of customs used only among one set of the king's subjects, called the custom of merchants, or *lex mercatoria*; which, however different from the general rules of the common law, is yet ingrafted into it, and made a part of it, Winch. 24; being allowed, for the benefit of trade, to be of the utmost validity in all commercial transactions: for it is a maxim of law, that "*cuiuslibet in sua arte credendum est.*"

Custom of merchants.

The rules relating to particular customs regard either the *proof* of their existence, their *legality* when proved, or their usual method of *allowance*.

If the custom be not a good custom, it ought to be no longer used: "*malus usus abolendus est*" is an established maxim of the law. To make a particular custom good, the following are necessary requisites:

What requisite to a good custom.

1. That it have been used so long, that the memory of man runneth not to the contrary. (a) So that, if any one can show the beginning of it, it is no good custom. For which reason, no custom can prevail against an express act of Parliament; since the statute itself is a proof of a time when such a custom did not exist. Co. Lit. 114. A custom that every pound of butter sold in a certain market should weigh eighteen ounces, is bad, because it is directly contrary to the 13 & 14 Car. II. c. 26; which directs that every pound throughout the kingdom shall contain sixteen ounces. See 3 T. R. 271. In which case, it seemed to be the opinion of the judges, that a custom to sell lumps of butter, containing eighteen or any other stated number of ounces, might be good and valid. The inconvenience arises from that which is every where called a pound being different in amount of weight in different parts of the kingdom, by which fraud and deception may be readily practised. Therefore, where a contract is made to sell specified goods by quantities of weight or measure, this must mean *statute* weight or measure. See 4 T. R. 314; 6 T. R. 338; 4 Taun. 102; 11 East, 300.

Beyond memory.

2. It must have been *continued*. Any interruption would cause a temporary ceasing: the revival gives it a new beginning, which will be within time of memory, and thereupon the custom will be void. But this must be understood with regard to an interruption of the *right*; for an interruption of the *possession* only, for ten or twenty years, will not destroy the custom. Co. Lit. 114. As, if the inhabitants of a parish have a customary right of watering their cattle at a certain pool, the custom is not destroyed though they do not use it for ten years; it only becomes more difficult to prove: but if the *right* be any how discontinued for a day, the custom is quite at an end.

Must have been uninterrupted.

3. It must have been *peaceable*, and acquiesced in; not subject to contention and dispute. *Id.* For, as customs owe their original to common consent, their being immemorially disputed, either at law or otherwise, is a proof that such consent was wanting. 1 Bla. Com. 77.

Immemorial acquiescence necessary.

4. Customs must be *reasonable*, Lit. s. 212, or, rather, taken negatively,

Must not be unreasonable.

(a) The memory of man is taken in law to run to the beginning of the reign of Richard I.; consequently, if it can be shown that the custom commenced at any time since, or did not exist before, that period, it is invalid. But a regular usage

for twenty years, unexplained and uncontradicted, is sufficient to warrant a jury in finding an immemorial custom. 2 B. & C. 54; 6 East, 214; 2 Saund. 175 a d; Peake's Evid. 336.

COMMON LAW.

they must not be unreasonable. Which is not always, as Sir *Edward Coke* says, 1 *Inst.* 62, to be understood of every unlearned man's reason, but of artificial and legal reason, warranted by authority of law. Upon which account, a custom may be good, though the particular reason of it cannot be assigned; for it sufficeth if no good legal reason can be assigned against it. Thus, a custom in a parish that no man shall put his beasts into the common till the 3d of October would be good; and yet it would be hard to show the reason why that day in particular is fixed upon, rather than the day before or after. But a custom that no cattle shall be put in till the lord of the manor has first put in his, is unreasonable, and therefore bad: for, peradventure, the lord will never put in his, and then the tenants will lose all their profits. *Co. Copyhold*, s. 33.

Or uncertain.

5. Customs ought to be certain. A custom, that lands shall descend to the most worthy of the owner's blood, is void; for how shall this worth be determined? but a custom to descend to the next male of the blood, exclusive of females, is certain, and therefore good. *Roll. Ab.* 565. A custom to pay 2d. an acre in lieu of tithes, is good; but to pay sometimes 2d. and sometimes 3d., as the occupier of the land pleases, is bad for its uncertainty. Yet a custom to pay a year's improved value for a fine on a copyhold estate, is good; though the value is a thing uncertain: for the value may at any time be ascertained; and the maxim of law is, *id certum est quod certum reddi potest*. A custom, that poor housekeepers shall carry away rotten wood in a chase is bad, being too vague and uncertain. 2 *T. R.* 758. A right to glean in the harvest cannot be claimed at common law; neither have the poor of a parish, legally settled, such right within the parish. 1 *Hen. Bla.* 51, 52. See *ante*, *Cleaning*. Vol. II. So is a custom for every inhabitant of an ancient messuage within a parish to take a profit *a prendre* in the land of an individual, bad. But such a right may be enjoyed by prescription or grant. 4 *T. R.* 717, 718; 2 *Hen. Bla.* 393; 1 *Ld. Raym.* 407; 1 *Saun.* 341, n. 3; 346, n. (3.)

Must be compulsory.

6. Customs, though established by consent, must be (when established) compulsory; and not left to the option of every man, whether he will use them or no. Therefore, a custom, that all the inhabitants shall be rated toward the maintenance of a bridge, will be good; but a custom, that every man is to contribute thereto at his own pleasure, is idle and absurd, and indeed no custom at all.

And consistent with each other.

7. Lastly, customs must be consistent with each other: one custom cannot be set up in opposition to another; for, if both are really customs, then both are of equal antiquity, and both established by mutual consent: which to say of contradictory customs is absurd. Therefore, if one man prescribes that by custom he has a right to have windows looking into another's garden, the other cannot claim a right by custom to stop up or obstruct those windows; for these two contradictory customs cannot both be good, nor both stand together. He ought rather to deny the existence of the former custom. 9 *Rep.* 58; 1 *Bla. Com.* 78.

Must be construed strictly.

Next, as to the allowance of special customs. Customs in derogation of the common law must be construed strictly. Thus, by the custom of gavelkind, an infant of fifteen years may, by one species of conveyance (called a deed of feoffment), convey away his lands in fee simple, or for ever. Yet this custom does not empower him to use any other conveyance, or even to lease them for seven years; for the custom must be strictly pursued. *Co. Cop.* s. 33. And, moreover, all special customs must submit to the king's prerogative. Therefore, if the king purchases lands of the nature of gavelkind, where all the sons inherit equally; yet, upon the king's demise, his eldest son shall succeed to those lands alone. *Co. Lit.* 15; 1 *Bla. Com.* 78.

And thus much for the second part of the *leges non scriptæ*, or those particular customs which affect particular persons or districts only.

(3) Peculiar laws used in particular courts, are the civil and canon laws.

3. As to those peculiar laws which by custom are adopted and used only in certain peculiar courts and jurisdictions, they are to be understood as the civil and canon laws. See 1 *Bla. Com.* 79.

STATUTE LAW]—We will now proceed as to the statute law, or, in other words, the *leges scriptæ*; which consist of statutes, acts, or edicts made by the

king's majesty, by and with the advice and consent of the lords spiritual and temporal and commons in Parliament assembled. 1 *Bla. Com.* 78 (a); *Com. Dig. Parliament*, (R. 3.)

STATUTE LAW.

Many ancient statutes are penned in the form of charters, ordinances, commands, or prohibitions from the king, without mentioning the concurrence of either lords or commons; yet, inasmuch as they have always been acquiesced in as unquestionably authentic, this establishes and confirms their authority, and the defect is salved by such universal reception. *Hawkins's Preface to Statutes*.

Statutes not in the name of the whole legislature.

As regards the making of these statutes, see 1 *Bla. Com. Parliament*; *Com. Dig. Parliament*; *Bac. Ab. Statute*. We will now proceed to inquire into

- I. The different Kinds of Statutes, 637.
- II. Time when Statute begins to take Effect, 639.
- III. When the King bound by a Statute, 640.
- IV. Construction of Statutes, 640.

I. The different Kinds of Statutes.

PUBLIC OR PRIVATE.]—Statutes are either general or special, public or private.

Either public, general, or private.

A *general or public* act is an universal rule, that regards the whole community; and of this the courts of law are bound to take notice judicially and *ex officio*; without the statute being particularly pleaded, or formally set forth by the party who claims an advantage under it. 1 *Bla. Com.* 85.

Public acts, what.

Special or private acts are rather exceptions than rules, being those which only operate upon particular persons and private concerns: such as the Romans entitled *senatus-decreta*, in contradistinction to the *senatus consulta*, which regarded the whole community; and of these (which are not promulgated with the same notoriety as the former) the judges are not bound to take notice, unless they be formally shown and pleaded.

Private acts, what.

Statutes may also be *local*, or referring to the interests of a particular place or district: such as road and inclosure acts, canal acts, or acts for town regulation. All such acts contain a clause by which they shall be deemed public acts. As to such clause, see 1 *M. & M.* 425; *post*, 638.

Local.

To show the distinction between public and private acts, it should be observed, the 13 Eliz. c. 10, to prevent spiritual persons from making leases for longer terms than twenty-one years, or three lives, is a public act; it being a rule prescribed to the whole body of spiritual persons in the nation: but an act to enable the Bishop of Chester to make a lease to A. B. for sixty years, is an exception to this rule; it concerns only the parties and the bishop's successors; and is therefore a private act. 1 *Bla. Com.* 86.

Instances.

All acts which concern the king or queen, or the prince, are general and public acts. 8 *Co.* 28 a; *the Prince's case*, 4 *Rep.* 13, 77 a.

So, a statute which concerns the whole spirituality, will be a general and public act: as the 21 Hen. VIII. c. 13. 4 *Rep.* 76 a; *Brownl.* 208.

So, a statute which concerns all officers in general, as the 21 Wil. I. c. 26, that no sheriff or other minister take reward, &c. 4 *Rep.* 76 a.

So, a statute which concerns trade in general. 4 *Rep.* 76 b.; *Lutw.* 1410; *Kirk v. Nowill*, 1 *T. R.* 125.

So, a statute by which penalties are given to the king, as the 2 P. & M. c. 11, relating to woollen weavers, &c. *Skin.* 429.

So, a statute which concerns all the lords generally, as the stat. *Marl.* 3. 4 *Rep.* 76 b.

So, if it concerns all persons generally, though it be but a special or parti-

(a) The oldest statute now extant, and printed in our statute books, is the famous *Magna Charta*, as confirmed in Parliament, 9 Hen. III.; though, doubtless, there were many acts before that time.

PUBLIC OR
PRIVATE.

cular thing: as, a statute which concerns appeals or assizes, or other particular action. *Id.*

A statute which concerns only a particular species or thing, or person, will be a private act, of which the judges will not take notice without pleading it: as, the 18 Eliz. c. 6, touching the colleges only in the universities. *Eton and Winchester*, 4 Rep. 76 a.

In a private act of Parliament, the legislature only lends its aid to the agreement of the parties, in order to render it effectual when any public reason stands in the way. By *Ld. Mansfield, C. J., R. v. Toms*, Dougl. 406.

It is a rule, that private acts of Parliament, introduced only for the settlement of particular estates, ought to be considered only as common conveyances, and directed by the same rules of law. By *Ld. Hardwicke, C. J., Hornby v. Houlditch*, 1 T. R. 93, n. a.; 1 Vent. 176; and see *Eton College v. Bishop of Winchester*, *Lofft*, 401.

So, a statute which relates to a particular place or town, will be a private law, though it concerns all persons: as, if it relates to such a manor, town, &c. 4 Rep. b; *Skin*. 350.

So, if it relates to a particular trade. 4 Rep. 76; *Kirk v. Nowill*, 1 T. R. 125.

Or to divers particular towns. 4 Rep. 76 b.

Or to one or divers particular counties. *Id.*

So, in a general act there may be a private clause; as in the 3 Jac. c. 5, the clause which gives the benefices of recusants in such particular counties to the university, is a private law. 10 Rep. 57 b.

An act of Parliament, private in its nature, is not made admissible in evidence against strangers by a clause declaring "that it shall be deemed and taken to be a public act, and shall be judicially taken notice of without being specially pleaded." *Brett v. Beules*, 1 M. & M. C. N. P. 425.

A canal act is not rendered a public act by containing provisions empowering the company to regulate and take tonnage rates and tolls from persons using the canal. *Id.*

Declaratory sta-
tutes, what.

DECLARATORY OR REMEDIAL.]—Statutes also are either declaratory of the common law, or remedial of some defects therein.

Declaratory, where the old custom of the kingdom is almost fallen into disuse, or become disputable; in which case the Parliament has thought proper, in *perpetuum rei testimonium*, and for avoiding all doubts and difficulties, to declare what the common law is and ever hath been. Thus, the statute of treasons, 25 Edw. III. c. 2, doth not make any new species of treasons, but only, for the benefit of the subject, declares and enumerates those several kinds of offence which were before treason at the common law. 1 Bla. Com. 86.

So, the 46 Geo. III. c. 37, declares that a witness cannot by law refuse to answer a question relevant to the matter in issue, the answering which has no tendency to accuse himself or expose him to penalty or forfeiture, though his answer may subject him to a civil action. This statute does not profess to introduce a new law, but only declares what is the existing law, in consequence of the contrariety of opinions delivered by the judges. See *Edwards*, Vol. II. p. 88.

The word *declare* in the act expounds what was the common law before. *Twynne's case*, 3 Rep.

Remedial sta-
tutes, what.

Remedial statutes are those which are made to supply such defects, and abridge such superfluities, in the common law, as arise either from the general imperfection of all human laws, from change of time and circumstances, from the mistakes and unadvised determinations of unlearned (or even learned) judges, or from any other cause whatsoever.

Enlarging and
restraining sta-
tutes, what.

And this being done, either by enlarging the common law where it was too narrow and circumscribed, or by restraining it where it was too lax and luxuriant, hath occasioned another subordinate division of remedial acts of Parliament into enlarging and restraining statutes. Instance the case of treason, in clipping the current coin of the kingdom, which was an offence not sufficiently guarded against by the common law; therefore it was thought expedient, by the 5 Eliz. c. 11, to make it high treason, which it was not at the

common law: so that this was an enlarging statute. At common law, also, spiritual corporations might lease out their estates for any term of years, till prevented by the 13 Eliz. before mentioned: this was, therefore, a restraining statute. DECLARATORY
OR REMEDIAL.

In legal language a *remedial* statute has a further signification, viz. a statute giving a party a mode of remedy for a wrong where he had none or a different one before; *e. g.* the statutes of hue and cry: (now repealed by, but most of the enactments re-enacted by, the 7 & 8 Geo. IV. c. 31.) These statutes neither enlarged or abridged the common law, and therefore neither supplied its defects or restrained its excesses; but, as the common law itself originally provided for an exigency, so did the statute. Of such a description namely, remedial, is the giving the owner a right to recover the stolen thing of the person who may have purchased it, provided such owner shall have proceeded to conviction. So, also, the statutes against gaming, which give the loser a right to recover the money lost. 1 *Bla. Com. by Lee*, p. 87, n. (34).

II. Time when Statute begins to take Effect, and how long it continues in Force.

If an act of Parliament had been brought in at the close of a session, and passed on the last day, which made an innocent act criminal, or even a capital crime, and if no day was fixed for the commencement of its operation, it had the same efficacy as if it had been passed on the first day of the session; and all who during a long session had been doing an act which at that time was legal and inoffensive, were liable to suffer the punishment prescribed by the statute. 4 *Inst.* 25; 4 *T. R.* 660; and see 2 *Bing.* 257. This was both flatly absurd and unjust; but it was the clear law of England, and could only be abrogated by the united authority of the king, lords, and commons in Parliament assembled; who, by the 33 Geo. III. c. 13, enacted, that when the operation of an act of Parliament is not directed to commence from any time specified within it, the clerk of the Parliaments shall indorse upon it the day upon which it receives the royal assent, and that day shall be the date of its commencement. Time of taking
effect.

An act made to correct an error by omission in a former statute of the same session, relates back to the time when the first act passed, and must be taken together, as if they were one and the same act. *Att.-Gen. v. Pougett*, 2 *Price*, 381.

Where by an act a duty is imposed, with a retrospective date depending on a fact which has taken place, and which is provided for by the alternative expressions "shall be," or "shall have been found," it seems that the duty attaches from such respective date. *Hume v. Huig, in error*, 8 *Bro. P. C.* 196.

Ignorance of law will not excuse a crime (see 4 *Bla. Com.* 27); but ignorance of a law which is of very recent enactment will in some cases afford good reason for a pardon. Thus, where the prisoner was indicted for maliciously shooting a person, and the offence was committed within a few weeks after the passing of the 39 Geo. III. c. 37, and before notice of it could have reached the place where the offence was committed, the judges thought that, as he could not have known of the act, he ought to have a pardon. *R. v. Bailey, R. & R. C.* 1. Ignorance of statute, how far an
excuse for a
crime.

If an act be, to have continuance for three years, and from thence to the end of the next session of Parliament, it shall continue to the end of a session which begins after the three years, though a session within three years continues several months or years after the three years. 1 *Vent.* 22. How long it shall
have continuance.

By the 48 Geo. III. c. 106, where any bill shall be introduced into any session of Parliament, for the continuance of any act which would expire in such sessions, and such act shall have expired before the bill for continuing the same shall have received the royal assent, such continuing act shall be deemed to have effect from the date of the expiration of the act intended to be continued, except it shall be otherwise provided in such continuing act. But nothing

HOW LONG IT
CONTINUES.

herein contained shall extend to affect any person with any punishment, penalty, or forfeiture, by reason of anything done or omitted to be done contrary to the provisions of the act continued, between the expiration of the same and the date at which the act continuing the same shall receive the royal assent.

III. When the King shall be bound by a Statute.

When the king is
bound by.

If an act speaks of the king *indefiniti*, being named in his politic capacity, it extends to all his successors. 12 Rep. 110; 6 Rep. 27 a.

So, to a queen, if the crown descends to a female. 12 Co. 110.

But, generally, the king shall not be restrained of a liberty or a right which he had before, by the general words of an act of Parliament, if the king be not named in the act. Pl. Com. 240; 3 T. R. 521.

Yet, if a statute be intended to give a remedy against a wrong, the king, though not named, shall be bound by it: as by the 32 Hen. VIII. c. 28, to prevent a discontinuance by the husband of the lands of his wife during coverture. R. 2 Inst. 681.

So, in all statutes made against wrong, to prevent fraud, or the decay of religion, the king is bound. R. 5 Rep. 14 b.

And therefore the king shall be bound by the statute Wil. II. c. 1, *de donis*. 5 Rep. 14 b.

So, by the statute Wil. II. c. 5, against tortious usurpations. Id.

So, the king, though not named, is bound by acts for the advancement of religion, or of learning, or providing for the poor, as the act 10 Car., for uniting livings in Ireland. Str. 516.

Clauses which limit in any way the right of the crown must be considered as repealed by subsequent statutes, unless expressly re-enacted. Att.-Gen. v. Newman, 1 Price, 439.

A statute made for the benefit of the king, shall be construed most beneficially for him: as the 17 Edw. II., *de Præp. Regis*, which says, that the king shall have the ward of his tenant seised in fee, extends to his tenant seised in tail. Pl. Com. 11 a.

When a statute creates a penalty, and says that one moiety shall be given to the use of the king, and the other to a common informer, the king may sue for the whole, unless a common informer has commenced a *qui-tam* suit for the penalty. R. v. Hymen, 7 T. R. 536.

IV. Construction of Statutes.

Construction of
statutes.

Nothing ought to be considered so necessary to the due administration of the office of justices of the peace, as a thorough acquaintance with the mode of construing statutes, since by far the greater portion of his jurisdiction depends upon them.

Abridgments should never, in any instance, be relied on in the construction of a statute. The statute itself should be consulted. For, according to Lord Coke, the best exposition of all acts of Parliament are the acts of Parliament themselves: "*optima statuti interpretatrix est (omnibus particulis ejusdem inspectis) ipsum statutum*;" and "*injustum est nisi tota lege inspecta, una aliquis ejus particula proposita judicare vel respondere*." (a)

The following are the most prominent rules and principles by which statutes are to be construed.

Construction
must be accord-
ing to words and
intent of act.

All acts of Parliament, as well private as general, shall be taken by a reasonable construction to be collected out of the words of the acts themselves, according to the true intent and meaning of the makers of the act. Id. Mount-

(a) For these reasons, it is thought expedient, in the present edition of this work, in most instances to give the very words of the statutes.

joy's case, 5th Reports; 10 Rep. 57, b.; *Com. Dig. Parliament*, R. 10. Therefore, if a corporation be misnamed, if it appear that it was intended, it is sufficient. 10 Rep. 57, b.; *Com. Dig. Parliament*, R. 10.

It has more than once been observed by the court, that the language of acts of Parliament is not to be examined with a critical eye, but according to its plain and obvious meaning. If we can find expressions in a statute capable of an intelligible explanation, it is our duty to give effect to them, according to the obvious intention of the legislature, and not according to a critical and literal interpretation. *Per Abbott, C. J., R. v. Bellamy*, 2 D. & R. 727, 1 B. & C. 500, S. C.

Where the legislature, in a very modern act of Parliament, have used words of a plain and definite import, it is very dangerous to put upon them a construction, the effect of which will be to hold that the legislature did not mean that which they have expressed. *Per Bayley, J., R. v. Stoke Damerel*, 7 B. & C., 563; 1 M. & R. 458, S. C.

All statutes in *pari materia* are to be construed as one law, *Dougl.* 30; 1 T. R. 53; 3 T. R. 135; and should be construed together, 2 Lofft, 398.

In construing acts of Parliament, the court must take into consideration not only the language of the preamble, or of any particular clause, but of the whole act; and if in some of the enacting clauses expressions are found of more extensive import than in others, the court will give effect to those more extensive expressions, if, upon view of the whole act, it appears to have been the intention of the legislature that they should have effect. *Doe v. Brandling*, 7 B. & C. 643; 1 M. & R. 600, S. C.; *Lincoln College Case*, 3 Rep. 58.

No strained construction should be placed upon a statute: it should be construed like a will. *Butler and Baker's case*, 3 Rep. 25.

Too much stress ought not to be laid on the literal meaning of a statute. Wherever it admits of two constructions, the spirit of it, and intent of the legislature, ought to be regarded in the construction thereof. Thus, the 13 Geo. III. c. 84, s. 34, provides, amongst other exemptions from toll, "or for any horses or carriages which shall only cross any turnpike road, and shall not pass above one hundred yards thereon." A question arose, whether a carriage, which did not cross the road, but quitted it again on the same side on which it entered, was not liable to toll, although it did not pass the one hundred yards. The court held that it was not liable, observing, that the statute meant to exempt carriages making a very slight use of the road. *Major v. Osenham*, 5 Tamm. 340; ante, Vol. III. p. 188.

Doubtful words should be construed with reference to the object and intentions of the act. See 9 B. & C. 548; *R. v. Hall*, 1 B. & C. 123.

The construction of private acts of Parliament is to be governed by the principles of common law, and applied to the subject in a manner analogous to the rules of interpretation in a private deed or conveyance. *Eton College v. Winchester, Bishop*, Lofft, 401.

One part of a statute must be so construed by another, that the whole may (if possible) stand: *ut res magis valeat, quam pereat*. But a saving, totally repugnant to the body of the act, is void. If, therefore, an act of Parliament vests land in the king and his heirs, saving the right of all persons whatsoever; or vests the land of A. in the king, saving the right of A.; in either of these cases the saving is totally repugnant to the body of the statute, and (if good) would render the statute of no effect or operation; and, therefore, the saving is void, and the land vests absolutely in the king. 1 Rep. 47; 1 Bla. Com. 81.

A saving clause will only save that which is in *esse* at the time of the saving. *Case of Alton Woods*, 1 Rep. 40, b.

An act ought not to be construed so as to work an injustice. 8 Rep. 136, a; 6 Bing. 259.

When the provision of a statute is general, it is subject to the control and order of the common law, and it should be construed accordingly, for statutes are not presumed to make any alteration in the common law, further or otherwise than the act expressly declares; therefore, in all general matters, the law presumes the act did not intend to make any alteration, for if the Parliament

Statutes in *pari materia* to be construed together.

All parts of act to be considered.

Should be construed like a will.

Statute not always to be construed literally.

Private acts to be construed like deeds.

Different parts so construed as if possible to stand. A saving, totally repugnant, void.

Saving clause.

Construction to be according to common law.

CONSTRUC-
TION OF STA-
TUTES.

had that design, they would have expressed it in the act. *Harbert's case*, 3 Rep. 116; also, *R. v. Bishop of London*, 1 Shaw, 455; *Hard*, 62; 11 Mod. 150.

If in the same act of Parliament there be one clause which applies to a particular case, and another which is conceived in general terms, the former shall not restrain the signification of the latter. *Per Buller, J., Andree v. Fletcher*, 2 T. R. 164.

But where a general intention is expressed, and the act expresses also a particular intention incompatible with the general intention, the particular intention is to be considered in the nature of an exception. *Per Best, C. J., Churchill v. Crease*, 5 Bing. 180.

Title of act.

The title of a statute is no part of the law. *R. v. Williams*, 1 W. Bla. 95.

The preamble to be considered.

The preamble is deemed true, and is a good means for collecting the intent, and may always assist in the solution of doubts. *Crespigny v. Witternoon*, 4 T. R. 793; 1 Inst. 11. But the preamble shall not restrain the operation of the enacting part of a statute which is expressed in clear and unambiguous words: as, where the preamble reciteth only a particular inconvenience, this shall not hinder a subsequent enacting clause from being understood in that more general sense which the words would otherwise and of themselves import, so as to take in other inconveniences of the like kind, although not specified in the preamble. 8 Mod. 144; 1 P. Wm. 320; *Loft*, 782; *Patterson v. Bankes*, Cowp. 543; *Perkins v. Sewell*, 1 Bla. Rep. 659. See the rule laid down in 7 B. & C. 643, ante, 641.

Usage to explain.

Where the words of a statute are doubtful, general usage may be called in to explain them; but, where they are clear, the usage of a particular place cannot control them. *R. v. Hogg*, 1 T. R. 728. The usage of any particular place alone cannot do so. *Id. Cald.* 266, S. C.

Enactments in statute itself for its interpretation.

The statute itself, especially of late, frequently contains a clause laying down rules of interpretation of doubtful words and clauses therein, as do the statutes relative to Saving Banks, Friendly Societies, Lunatics, Lighting and Watching Parishes, &c. &c.; and see the respective titles.

Rule for the interpretation of all criminal statutes.

The following is the new and important provision of the 7 & 8 Geo. IV. c. 28, s. 14, relative to the interpretation of all criminal statutes. The words of the enactment are—"that wherever this or any other statute relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence or the subject-matter on or with respect to which it shall be committed, or the offender or the party affected or intended to be affected by the offence, hath used or shall use words importing the singular number or the masculine gender only, yet the statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the party aggrieved."

Remedial statutes to be construed literally.

There are three points to be considered in the construction of all remedial statutes; the old law, the mischief, and the remedy: that is, how the common law stood at the making of the act; what the mischief was, for which the common law did not provide; and what remedy the Parliament hath provided to cure this mischief. And it is the business of the judges so to construe the act as to suppress the mischief and advance the remedy, consistently with the fair construction of the act. *Heydon's case*, 3 Rep. 7; *Co. Lit.* 11, 42; 1 Bla. Com. 81; *Johnes v. Johnes*, 3 Dow, 15; *Atcheson v. Everitt*, Cowp. 391, S. P.; *Stainford v. Sinclair*, 9 Moore, 379; 2 Bing. 193, S. C.

All cases within the same mischief.

So, in all cases within the same mischief, the case shall be construed within the intent, though it be not within the letter of the statute. *Com. Dig. Parliament*, (R. 13.) As the statute *Marlb.* 29, which gives remedy to the successor, *ad bonæ ecclesiæ repelenda*, extends to trespass for cutting down trees. 2 Inst. 152.

The 2 Geo. II. c. 22, continued by the 29 Geo. II. c. 28, expired 1st June, 1759; the 32 Geo. II. c. 28, commenced 15th June, 1759; so there was a chasm of fourteen days. The court declared they would construe equitably, and that Trinity Term, 1759, ought to be considered as the term in which such prisoners (as had been precluded by the expiration of the former act from

completing their discharge under it) were charged in execution, and therefore they had *Michaelmas* Term for the first term next after their being charged in execution. 2 B. M. 901.

CONSTRUCTION OF STATUTES.

But a *casus omisus* can in no case be supplied by a court of law; for that would be to make laws. *Per Buller, J., Jones v. Smart*, 1 T. R. 52.

Casus omisus.

A case, out of the mischief intended to be remedied by a statute, shall be construed to be out of the purview, though it be within the words of the statute. 2 Inst. 386.

A case out of mischief provided against.

Statutes against frauds are to be liberally and beneficially expounded. This may seem a contradiction to the rule, that penal statutes should be construed strictly; most statutes against frauds being in their consequences penal. But this difference is here to be taken: where the statute acts upon the offender, and inflicts a penalty, as the pillory or a fine, it is then to be taken strictly; but when the statute acts upon the offence, by setting aside the fraudulent transaction, here it is to be construed liberally. Upon this footing the statute of 13 Eliz. c. 5, which avoids all gifts of goods, &c. made to defraud creditors and others, was held to extend by the general words to a gift made to defraud the queen of a forfeiture. *Twynne's case*, 3 Rep. 81.

Statutes against frauds construed liberally.

And it has been held that the same words in a statute will bear different interpretations, according to the nature of the suit or prosecution instituted upon them. As, by the 9 Anne, c. 14, the statute against gaming, if any person shall lose at any time or sitting 10*l.*, and shall pay it to the winner, he may recover it back within three months; and if the loser does not, within that time, any other person may sue for it, and treble the value besides. So, where an action was brought to recover back fourteen guineas, which had been won and paid after a continuance at play, except an interruption during dinner, the court held the statute was remedial, as far as it prevented the effects of gaming, without inflicting a penalty, and therefore, in this action, they considered it one time or sitting; but they said, if an action had been brought by a common informer for the penalty, they would have construed it strictly in favour of the defendant, and would have held that the money had been lost at two sittings. 2 Bla. Rep. 1226.

A penal statute may also be a remedial law. 1 Wils. 126.

Statute penal as well as remedial.

And a statute may be penal in one part and remedial in another part. *Dougl.* 702.

A statute for suppression of wrong, or for public good, shall be construed like a remedial act, though it be penal against the offenders. *Pl. Com.* 82 *a*, 17 *a*.

Where an offence, created or made penal by statute, is in its nature single, one single penalty only can be recovered, though several join in committing it; but if the offence is in its nature several, each offender is separately liable to the penalty. *R. v. Clark*, *Cowp.* 610.

As, the stat. of Glou. 5, which gives treble damages, &c. in waste, against tenant for years, extends by equity to a tenant for half a year. *Pl. Com.* 178.

The stat. Wil. II., which gives debt against a gaoler for an escape of one committed for arrears of an account, extends to an escape of any committed in execution for debt. *Pl. Com.* 178 *a*, 35 *a*.

So the stat. of Glou. 5, which gives remedy for waste against a lessee, extends to a devise for life or years. *Pl. Com.* 10 *a*.

The stat. 1 Edw. II., *de frangentibus prisonam*, says, *that a felon who breaks prison shall be guilty of felony*; but it shall not be so if the prison was on fire. *Pl. Com.* 13.

Penal statutes must be construed strictly. Thus, the 1 Edw. VI. c. 12, having enacted, that those who are convicted of stealing horses should not have the benefit of clergy, the judges conceived that this should not extend to him that should steal but one horse, (a) and therefore procured a new act for that

Penal statutes construed strictly

(a) Lord Hale thinks that the scruple of the judges did not merely depend upon the words being in the plural number, because no doubt had ever occurred respecting former statutes in the plural number; as, for instance, it was enacted

by the 32 Hen. VIII. c. 1, that no person convicted of burning any dwelling houses should be admitted to clergy. But the reason of the difficulty in the case was, because the statute of 37 Hen. VIII. c. 8, was expressly penned in the

CONSTRUCTION OF STATUTES.

purpose in the following year, 2 & 3 Edw. VI. c. 33. *Bac. Elem. c. 12.* And by the 14 Geo. II. c. 6, stealing sheep, or other cattle, was made felony, without benefit of clergy. But these general words, "or other cattle," being looked upon as much too loose to create a capital offence, the act was held to extend to nothing but mere sheep. And therefore, in the next sessions, it was found necessary to make another statute, 15 Geo. II. c. 34, extending the former to bulls, cows, oxen, steers, bullocks, heifers, calves, and lambs, by name. And see now the 7 & 8 Geo. 4, c. 29. It has since been decided, that where statutes use the plural number, a single instance will be comprehended. The 2 Geo. II. c. 25, enacts, that it shall be felony to steal any bank-notes, and it has been determined that the offence is complete by stealing one bank-note. *Hassel's case, Leach's Cr. L. 1.*

The statute against maintenance shall be construed strictly. *Com. Dig. Parliament, (R. 20), 86 b.*

The statute de malefactoribus in parvis was held not to extend to those in forests. *Id.*

So, the general words of a penal statute shall be restrained for the benefit of him against whom the penalty is inflicted.

As the stat. Wil. II. 11, that the body of an accountant shall be committed by the auditors to gaol, without saying at what time; but he cannot be committed by them, if it be not immediately upon the account. *Pl. Com. 17 a.*

So, where the 12 Geo. II. c. 34, s. 2, directs that the sheriff should proclaim the order in council against offenders under that act, in two market towns, near the place where such offence was committed, the word near shall be taken to mean a reasonable vicinity, though not equivalent to next. 1 *Wils. 164; 1 Bl. 20.*

But the exposition of a penal statute ought to be such, that the statute be not eluded. 2 *Rol. 127; Com. Dig. Parliament, (R. 28.)*

Where a statute gives accumulative damages to the party grieved, it is not penal. *Woodgate v. Knatchbull, 2 T. R. 154.*

Every statute which introduces a capital punishment must be construed strictly. *R. v. Harvey, 1 Wils. 164.*

Statutes under which parties are made exempt from duties imposed by general acts should be construed strictly. *Perchard v. Heywood, 8 T. R. 468.*

Explanatory statutes should not be construed by any strained sense against the letter of the act; for, if any such exposition should be made, there would be no end of expounding. *Butler and Baker's case, 3 Rep. 25.*—They ought to be construed beneficially.

Where a special authority is delegated, by act of Parliament, to particular persons to take away a man's property and estate against his will, there it must be strictly pursued, and must appear to be so upon the face of the proceedings. *R. v. Croke, Coup. 26.* An enlarged construction must not be put thereon. *Lofft, 438.*

If an act of Parliament gives to the lord of a manor the conusance of all pleas within his manor, he shall not have conusance where he himself is party; *iniquum est aliquam suæ rei esse judicem.* *Bonham's case, 8 Coke 118, a.*

If a statute says, that anything for the public benefit may be done, it shall be sometimes construed that it must be done: as the 23 H. 6, c. 10, says, the sheriff, &c. may bail, he shall be bound to bail. *Salk. 609; Com. Dig. Parliament, (R. 22.)*

The 13 & 14 Car. II. c. 12, enacts, that the overseers may make a rate to reimburse the constables: this is construed they shall; for they are compellable so to do. 2 *Salk. 609.*

The words "shall and may" are only imperative where the clause in a statute is for the public benefit. *R. v. Flockwood Inclosure (Commissioners), 2 Chit. 251; 5 B. & A. 691.*

singular number, *If any man do steal any horse, mare, or filly*; and then this statute, thus varying the number, and at the same time expressly repealing all other exclusions of clergy introduced

since the beginning of Hen. VIII., it raised a doubt whether it were not intended by the legislature to restore clergy where only one horse was stolen. 2 *H. P. C. 365.*

But exposition ought not to be such as to elude the act.

What not a penal act.

Statute introducing capital punishment.

Exemption from duties by general statutes.

Explanatory statutes.

Statute against common rights.

When words of permission obligatory, as the words, "shall and may be," &c.

But if from the whole act it appears the legislature did not intend the words *shall* and *may* as imperative, they cannot be so construed—as where an act directed it should and might be lawful for trustees to do an act if it should be deemed proper, &c., it was held the enactment was merely directory. *De Beauvoir v. Welch*, 7 B. & C. 226; 1 M. & R. 81, S. C.; *ante*, Vol. III. p. 150.

In *R. v. the Bailiffs of Eye*, 4 B. & A. 271, the words “*it shall be lawful*,” came under consideration as occurring in one of their by-laws; on which Abbott, C. J., observed, “the words are, ‘*that it shall be lawful for the bailiffs, &c. to admit*.’” Those words clearly give to the bailiffs a discretionary power to admit the persons who have the qualifications therein mentioned, but they by no means make it imperative on them so to do. See, also, *Allen v. Waldgrave*, 2 Moore, 625; 8 Taun. 566, S. C.

A statute which treats of things or persons of an inferior rank, cannot by any general words be extended to those of a superior. So, a statute treating of “*deans, prebendaries, parsons, vicars, and others having spiritual promotion*,” is held not to extend to bishops, though they have spiritual promotion, deans being the highest persons named, and bishops being of a still higher order. *Canterbury's case*, 2 Rep. 46; *Hard*. 442. This construction must be presumed to be most conformable to the intention of the legislature.

Where a statute mentions inferior conveyances, the subsequent words, “*by any other means*,” cannot be intended of an act of Parliament, which is the highest manner of conveyance that can be; and, therefore, the makers of the act would have put that in the beginning, and not in the end, after the inferior conveyances, if they had intended to extend the act thereunto. *Archbishop of Canterbury's case*, 2 Rep. 46 b.; *Copland v. Powell*, 1 Bing. 373.

Where a statute speaks of indictments to be taken before justices of the peace, or others having power to take indictments, it shall be understood only of other inferior courts, and not of the King's Bench, or other courts at Westminster. *Canterbury's case*, 2 Rep. 46; 2 *Haw. c.* 27, s. 124.

Where a statute directs a penalty to be recovered in any court of record, this shall not be intended of the quarter sessions, unless it be specially named in such statute; but only of the courts of record at Westminster. 6 Rep. 19, 20; 2 *Hale*, 29, 30.

On the other hand, it seems that, if a statute names inferiors, it includes superiors. As, if a statute makes the securities given by the sureties of the farmers of the excise to be exempted out of the act of oblivion, *a fortiori*, the securities of the farmers themselves shall be exempted. *R. Hard*. 424.

Where the moiety of a penalty is given by statute to the treasurer of a county, riding, or division, the word “*division*” does not apply to small districts, such as the Cinque-Port of Seaford, in Sussex, but must be construed with reference to county and riding, and means something analogous to them. *Evans, q. t., v. Stevens*, 4 T. R. 224, 459.

Neither can it be applied to the different parts of a county in which the magistrates act under one general commission, but for the convenience of the county adjourn the quarter sessions from one part of it to another, and appoint a separate treasurer for each. *Evans, q. t., v. Stevens*, 4 T. R. 225, 459.

Regularly, where an act of Parliament giveth a power or interest to one person certain, by this express designation of one, all others are excluded. 11 Rep. 59, 64.

Where persons, as justices, commissioners, &c., have special authority by statute, they have none but what is under such statute, all other acts being void. *R. v. Lindale*, 1 Burr. 445.

An act of Parliament, authorizing persons to repair and cleanse a navigable river, does not authorize them to make a passage to a new wharf on the river. *Poathwicke v. Mason*, 2 Chit. 658.

In all cases, where justices may take examinations, or other accusation or proof, though the statute doth not expressly set down that it shall be upon oath, yet it shall be intended that it shall be upon oath. *Dalt. c.* 115.

Generally it is holden, that where a statute appoints a thing to be done by one or more justices without giving any appeal to the sessions, there the justices in sessions may do that thing; but where an appeal is given to the ses-

General words treating of inferiors do not extend to superiors.

Court of record.

But general words treating of superiors sometimes include inferiors.

Special power to one person only to be pursued.

Special authority.

Power to administer an oath.

In what case the sessions may execute the power given to two justices.

CONSTRUCTION OF STATUTES.	sions, the justices in sessions cannot proceed originally therein, because that method would take away the power of appealing. See <i>Sessions, ante</i> , p. 475.
Power to convene the parties.	Where a statute gives power to the justices to require any person to do a thing, as to take the oaths, the law implicitly gives them power to issue their precept to have the body before them: for when the law granteth anything to any one, that also is granted without which the thing itself cannot be; and it is against the office of the justices, and the authority given them by the law, that they shall go and seek the parties, 12 <i>Rep.</i> 130, 131.
Necessity of summoning the party.	Where a statute gives power to the justices of the peace to hear and determine an offence in a summary way, it is necessarily implied and supposed, as a part of natural justice, that the party be first cited, and have opportunity to be heard and answer for himself. 1 <i>Haw. c.</i> 64, s. 60; see <i>Constitution</i> , Vol. I. p. 827.
Two justices to be both together.	Where an act of Parliament gives power to two justices finally to hear and determine an offence, it is necessarily supposed, that they shall be both together, or, which is the same thing in other words, that they shall hold a special sessions for that purpose. And the like is, when they are to do any other judicial act, as to make an order of bastardy, or adjudge the settlement of a poor person. For it is unknown to the laws of England, that two persons shall act as judges in the same cause, when at the same time one of them is in one part of the country and the other in another. See <i>Justices</i> , Vol. III. p. 466.
Informers' oath.	Where a statute appoints a conviction to be on the oath of one witness, this ought not to be by the single oath of the informer; for if the same person shall be allowed to be both prosecutor and witness, it would induce profligate persons to commit perjury for the sake of the reward. 2 <i>Ld. Raym.</i> 1545; see <i>Constitution</i> , Vol. I. p. 817; Vol. II. p. 74.
Confession.	Where a statute directeth that a person shall be convicted of an offence upon the oath of one or more witnesses, and saith nothing of the confession of the party, yet if the offender shall before the justice confess the offence, he may be convicted upon such confession: for confession is stronger evidence than the oath of witnesses. <i>Dalt.</i> 109, 162; 1 <i>Str.</i> 546; see <i>Constitution</i> , Vol. I. p. 830.
Discretionary power.	Where an act of Parliament gives power to the justices of the peace to take order in any matter according to their discretions, this shall be understood according to the rules of reason, law, and justice, and not by private opinion. 5 <i>Rep.</i> 100; see 8 <i>Howell's St. Tri.</i> 55 (<i>notis</i>); and <i>Justices</i> , Vol. III. p. 465.
England including Wales.	In all cases where the kingdom of England, or that part of Great Britain called England, hath been or shall be mentioned in any act of Parliament, the same shall be deemed to comprehend the dominion of Wales, and town of Berwick-upon-Tweed. 20 <i>Geo. II. c.</i> 42, s. 3.
Berwick. Mitigating penalties.	Where a statute gives discretionary power of mitigating penalties, it is a general rule that there the legislature must be taken to have intended to place the matter under the jurisdiction of the justices of the peace. <i>Per Abbott, C.J., Reeve v. Poole</i> , 4 <i>B. & C.</i> 156.
Twelve months.	It may be laid down as an invariable rule, that the law favours liberty: so that, in the construction of a penal statute, where the interpretation is dubious, that sense must be pursued (all other things being equal) which is more beneficial to the subject, or the party suffering. Thus, where an act directs that the justices shall commit an offender to prison for twelve months, the justices may not alter the words, and commit him for a year; for, in this respect, twelve months and one year are not the same: but the months must be computed at twenty-eight days to the month, and not as calender months, unless it be so expressed in the act. See <i>post</i> , <i>Time</i> .
Quakers' affirmation.	In all cases wherein, by any act of Parliament, an oath shall be allowed or required, the solemn affirmation of Quakers shall be allowed instead of such an oath, although no particular or express provision be made for that purpose in the said act. 22 <i>Geo. II. c.</i> 46, s. 3. By the 9 <i>Geo. 4. c.</i> 32, <i>ante</i> , <i>Substance</i> . Vol. II. p. 86, a Quaker or Moravian required to give evidence in a criminal case may, instead of an oath, take the affirmation or declaration therein prescribed.
Forfeiture.	To say that a person shall forfeit generally, or that he shall forfeit to the king, is all one; for the king shall have every forfeiture not otherwise limited. 11 <i>Rep.</i> 60. Except where a forfeiture is given in lieu of property and interest; for there it shall go to the party injured. 1 <i>Roll. Rep.</i> 90. For, whosoever a

statute giveth a forfeiture or penalty, against him which wrongfully detaineth or dispossesseth another of his duty or interest, in that case, he that hath the wrong shall have the forfeiture or penalty, and shall have an action for the same upon the statute, and the king shall not have the forfeiture in that case. 1 *Inst.* 159.

CONSTRUCTION OF STATUTES.

Where a statute saith, that such a person shall pay fine and ransom to the king, in legal understanding such fine and ransom are all one: for, if they were divers, then should the party pay two sums, one for the fine and another for the ransom, which was never done. 1 *Inst.* 127.

Fine and ransom.

Acts of Parliament that speak of fines or ransoms at the king's pleasure, are always to be understood of the king in his courts by his justices. 1 *Hale*, 375.

At the king's pleasure.

It is said, that whosoever a justice of the peace is empowered, by any statute, to bind a person over, or to cause him to do a certain thing, and such person, being in his presence shall, refuse to be bound or to do such thing, the justice may commit him to the gaol, to remain there till he shall comply. 2 *Haw. c.* 16, s. 2. See, *Commitment*, Vol. I. p. 757; *Justices*, Vol. III. p. 469.

Where a power of commitment is implied.

When a statute appoints imprisonment, but limits no time when, it shall be immediately. 8 *Rep.* 119.

Imprisonment, when.

When a statute appoints imprisonment, but limits no time how long, the prisoner in such case must remain at the discretion of the court. *Dalt.* 410.

Imprisonment, how long.

Where any offender shall by a justice of the peace be committed to the house of correction for an offence cognizable before him out of sessions, and the time and manner of punishment is not by law expressly limited, he may commit him to the house of correction, there to be kept to hard labour until the next general or quarter sessions, or until discharged by due course of law. 17 *Geo. II. c.* 5, s. 32.

Commitment to the house of correction, for what time.

Wherever a statute makes any offence felony, it incidently gives it all the properties of felony at common law. 1 *Haw. c.* 38, s. 18.

Statute making an offence felony.

Therefore, an act of Parliament that makes an offence felony, doth consequently introduce the punishment of concealing,—that is, misprision of felony; and every offence made felony by act of Parliament includeth misprision. 1 *Hale*, 708.

Misprision.

An act making a new felony extendeth not to infants under fourteen years of age; but if they be of that age it binds them. 1 *Hale*, 706; see *Infants*, Vol. III.

Infants.

Not only those crimes which are made felonies by the express words of any statute, but also those which are decreed to have or undergo judgment of life and member, do become felonies thereby, whether the word felony were mentioned or not. 1 *Haw. c.* 40, s. 1.

Life and member.

But an offence shall never be made felony, by the construction of any doubtful and ambiguous words of a statute; and, therefore, if it be only prohibited under pain of forfeiting body and goods, or of being at the king's will for body, lands, and goods, it shall amount unto no more than a high misdemeanor, punishable by imprisonment or the like. *Id.* s. 2.

Body and goods.

Saving of dower in a statute making an offence felony, is superfluous; for, by the 1 *Edw. VI. c.* 12, s. 17, dower is not lost by the felony of the husband.

Forfeiture of dower.

Where any complaint shall be made before a justice, and a warrant or summons shall issue in consequence thereof, the justice, upon hearing and determining the matter, may award costs to either party: but if the conviction be upon a penal statute, and the penalty amounts to 5*l.* or upwards, the costs shall be deducted out of the penalty. 18 *Geo. III. c.* 19; see *Costs*, Vol. I.

Costs.

Upon an indictment or other criminal prosecution, no damages can be given to the party grieved; but it is every day's practice in the Court of King's Bench to induce defendants to make satisfaction to the prosecutors, by intimating an inclination on that account to mitigate the fine due to the king. 2 *Haw. c.* 25, s. 3; see further, *Justices*, Vol. III. p. 470.

Damages.

Where a statute gives treble damages, the justices are not to assess the damages, and then treble them; but the jury ought to find the damages, and then the justices are to treble them. *Cro. Car.* 449. *Justices*, Vol. III. p. 470.

Treble damages.

In all cases where a justice is required by any act of Parliament to issue a warrant of distress for the levying of any penalty inflicted, or any sum of money directed to be paid by such act, it shall be lawful for such justice

Distress and sale.

CONSTRUCTION OF STATUTES.

granting the warrant, therein to order and direct the goods distrained to be sold within a certain time to be limited in such warrant, so as such time be not less than four days, nor more than eight days, unless such penalty or sum of money, together with the reasonable charges of taking and keeping the distress, be sooner repaid. And the officer making such distress may deduct the reasonable charges of taking, keeping, and selling the said distress; and the overplus, if any, shall be returned to the owner on demand. Except only in cases of distress for Quakers' tithes and church-rates. 27 Geo. II. c. 20; see *Distress*, Vol. I.

Second offence.

An act inflicting a penalty for a second offence must always be understood, after conviction and judgment for the first offence; and the second offence must be committed after the first conviction, and judgment thereupon given; for it doth not appear to be an offence, until judgment by proceeding of law be given against the offender. 2 *Inst.* 468.

And the indictment for a second offence must recite the record of the first conviction; and, upon the evidence, the record of the first conviction must be proved: but the matter of the first conviction shall never be re-examined, but must stand for granted. 1 *Hale*, 686.

Expense of jury.

A private act which provides for the expense of maintaining a jury does not extend to a dinner given to them at a tavern after they had delivered their verdict. *Forster v. Taylor*, 3 *Comp.* 49.

Forms given by statute.

As to how far the forms prescribed by a statute must be followed, see, fully, *Conbiction*, Vol. I. p. 846, 847.

If a particular form of a notice or order be prescribed by a private act of Parliament, it must be fully set out and precisely pursued; and an allegation that due notice was given is not sufficient. *R. v. Croker*, *Coup.* 30.

And a defective notice, under a private act of Parliament, is not cured by the appearance of the party. *Id.*

Clauses of limitation of proceedings under.

As to the construction of clauses limiting the time for bringing actions, &c., for prosecutions, &c., under the act, or for acts done under it, see, *post*, *Time*; *Conbiction*, Vol. I.; *Justices*, Vol. III. p. 495.

In what time prosecution shall be on penal statutes.

All actions, indictments, or informations, on penal statutes, for any forfeiture limited to the king, shall be brought within two years after the offence committed; if limited to the king and prosecutor, then within one year; and if it is not sued for in that one year, then the king may sue for the same within two years after the expiration of that one year, and not otherwise. 31 *Eliz.* c. 5, s. 5. That is to say, unless where it is otherwise specially directed by subsequent statutes. See *Information*, Vol. III. p. 369, 370.

Where time limited, the thing must be done within it.

Wherever a statute imposes terms and prescribes a thing to be done within a certain time, the lapse of a day is fatal, even in a penal case, because no inferior court can admit of any terms but such as directly and precisely satisfy the law. *Farrell v. Tomlinson*, 5 *Bro. P. C.* 438; 8 *Rep.* 119.

Act indemnifying persons acting under it.

It has uniformly been held, that where a party *bond fide* believes or supposes he is acting in pursuance of an act of Parliament, he is within the protection of its clauses. *Beechey v. Sides*, 9 *B. & C.* 809; and see the various decisions collected under the title *Justices*, Vol. III. p. 491.

Where an act gives certain privileges to officers who may be sued for things done in pursuance thereof, and a subsequent act imposes new obligations, the privileges given by the former act do not attach upon things done in pursuance of the latter. *Basing v. Skelton*, 5 *T. R.* 16.

How far an indictment will lie, where another method of prosecution is appointed.

Where a statute makes a new offence, which was no way prohibited by the common law, and appoints a particular manner of proceeding against the offender, as by a commitment, or action of debt, or information, without mentioning an indictment, it seems to be settled at this day, that it will not maintain an indictment, because the mentioning the other methods of proceeding only seems impliedly to exclude that of indictment: yet it hath been adjudged that if such statute gave a recovery by action of debt, bill, plaint, information, or otherwise, it authorizes a proceeding by way of indictment. 2 *Haw.* c. 25, s. 4.

And if there be a prohibitory clause in the act, the offender may be indicted upon the prohibitory clause, notwithstanding the penalty: but otherwise it is,

where the act is not prohibitory, but only inflicts the forfeiture, and specifies the remedy. 2 *Hale*, 171; 1 *Burr.* 543.

But where the offence was antecedently punishable by a common law proceeding, and a statute prescribes a particular remedy by a summary proceeding, there either method may be pursued, and the prosecutor is at liberty to proceed either at common law or in the method prescribed by the statute: because in that case the sanction is cumulative, and doth not exclude the common-law proceeding. 2 *Burr.* 803; *Sharp v. Warren*, 6 *Price*, 131. *R. v. Carlile*, 3 *B. & A.* 161; *Blasphem.* Vol. I. p. 400.

But every contempt of a statute is indictable where no other punishment is limited. 1 *Haw. c.* 22, s. 5; see *Indictment*, Vol. III. p. 320.

And whosoever an act of Parliament doth generally prohibit any thing, the party grieved shall not only have his action for his private relief, but the offender shall be punished at the king's suit, for the contempt of the law. 2 *Inst.* 163.

And when a new offence is created by one clause of an act, and a penalty annexed by a separate and substantive clause, a prosecutor may indict on the clause creating the offence, and is not obliged to sue for the penalty. *R. v. Harris*, 4 *T. R.* 205.

Wherever an act of Parliament gives a right, the common law gives a remedy. *Ashby v. White*, *Salk.* 20, 21; 6 *Mod.* 54.

If it be doubtful whether a statute declaring an act, instrument, or contract, void, makes it voidable only, another clause in the same statute, imposing a penalty on such act, instrument, or contract, is a clear test that it is, *ipso facto*, void. *Gye v. Felton*, 4 *Tam.* 876.

Where a statute points out the manner in which a canal company shall convey lands, and enacts that "every such conveyance shall be valid," it does not cure any defect in the title of lands so conveyed. *Ward v. Scott*, 3 *Campb.* 284.

Where an act of Parliament alters the service, tenure, or interest in the land in prejudice of the lord or tenant, there the general words of such act will not extend to copyholds; but if an act is made for the public good, and no prejudice accrues to the lord or tenant, there copyholds are within the purview of it. *Heyden's case*, 3 *Rep.* 7.

If, under an act of Parliament, the property in goods, chattels, furniture, clothing, and debts, is vested in certain directors of the poor, yet the property in money and securities for money is not vested in them by those words. *R. v. Beacall*, and *R. v. Willings*, 1 *C. & P.* 454.

Statutes conferring privileges on the members of the universities mean only the members of the universities of Oxford and Cambridge, unless otherwise expressed. *Jones v. Smart*, 1 *T. R.* 49.

Repeal of a Statute, what shall be—A statute may be repealed by the express words of a subsequent statute, or by implication.

The bare recital of a statute is not sufficient to repeal the positive provisions of a former statute, without a clause of repeal. *Dore v. Gray*, 2 *T. R.* 365.

A statute cannot be repealed by *nonuser*. *White v. Boot*, 2 *T. R.* 275.

Where the words of an act of Parliament are plain, it cannot be repealed by *nonuser*; yet, where there has been a series of practice without any exception, it goes a great way to explain the act, where there is any ambiguity. *Per* *Ld. Kenyon*, *C. J.*, *Leigh v. Kent*, 3 *T. R.* 364.

Where the common law and a statute differ, the common law gives place to the statute; and an old statute gives place to a new one; and this upon a general principle of universal law, that "*leges posteriores priores contrarias abrogant*;" consonant to which it was laid down by a law of the twelve tables at Rome, that "*quod populus podremum jussit, id jus ratum esto*." 1 *Bla. Com.* 89.

But this is to be understood only when the latter statute is couched in negative terms, or where its matter is so clearly repugnant, that it necessarily implies a negative. As, if a former act says, that a juror upon such a trial shall have twenty pounds a year, and a new statute afterwards enacts that he shall have twenty marks; here the latter statute, though it does not express, yet necessarily implies a negative, and virtually repeals the former: for if twenty marks

CONSTRUCTION OF STATUTES.

Where no method of prosecution is appointed.

Where the defendant may be prosecuted both by the king and the party grieved.

Where statute gives a right, the common law gives remedy. Where statute makes an instrument void.

Where statute does not cure defective conveyance. Copyholds, when included.

Property not vested within words of act.

Universities.

Repeal of a statute.

Common law gives place to statute, and an old to a new one.

CONSTRUC-
TION OF STA-
TUTES.

be made qualification sufficient, the former statute, which requires twenty pounds, is at an end. *Jenk. Cent.* 2, 73; 1 *Ld. Raym.* 160.

But, if both acts be merely affirmative, and the substance such that both may stand together, here the latter does not repeal the former, but they shall both have a concurrent efficacy. If, by a former law, an offence be indictable at the quarter sessions, and a latter law makes the same offence indictable at the assizes, here the jurisdiction of the sessions is not taken away, but both have a concurrent jurisdiction, and the offender may be prosecuted at either; unless the new statute subjoins express negative words: as, that the offence shall be indictable at the assizes, *and not elsewhere.* 11 *Rep.* 63; *Com. Dig. Parliament*, R. 9.

The 23 *Eliz.* 1, which gives 20*l.* per month against a recusant, does not take away the penalty of 12*d.* for every *Sunday*, given by the 1 *Eliz.* c. 2. 11 *Rep.* 63 *b.*

But, where affirmative words in sense contain a negative,—as, where a new ordinance is made which directs the form or order of the proceeding, it shall be otherwise. *Pl. Com.* 113.

Where a new act does not continue the old mode enacted in a prior act, but substitutes a new mode, the substitution of the new mode supersedes, with all its consequences, the old. A variation in the mode implies a change in the intention of the legislature. Had it been intended to continue the old system, the use of the old language, and the continuance of the old mode, would naturally have been expected. Where new language is introduced, and a new mode adopted, it must be supposed a new system was intended. See, *per Bailey, J., Fearnley v. Morley*, 5 *B. & C.* 30; 7 *D. & R.* 832, *S. C.*; *Gray v. Shilling*, 2 *B. & B.* 30; 4 *Moore*, 371, *S. C.*

Where the intention appears that the subsequent act shall not have such an operation, though the words, taken strictly and grammatically, would repeal a former act, the courts hold that they ought not to receive such a construction. See *Williams v. Pritchard*, 4 *T. R.* 2.

Affirmative words in an act of Parliament, without any negative, express or implied, do not take away the common law. *Pl. Com.* 112; 2 *Inst.* 200.

Where, by the 1 *Eliz.* c. 2, a minister who does not read the common prayer shall lose the profits of his benefice for the first offence, and, being convicted, &c., for a second offence, shall be deprived; yet he might be deprived by the high commission erected by the power of the common law for the first offence, without a conviction, &c., or the methods directed by the statute. 5 *Rep.* 5 *b.*; *De Jur. Eccl.*; and see, *ante*, 648, 649.

So, general words do not take away a particular privilege or benefit: as the stat. *Wil. II.* c. 18, which gives an *elegit*, does not take away the privilege an infant has, that he shall not be sued during his non-age, if an *elegit* be against the heir of a consor, being an infant. 2 *Inst.* 395.

A power in an act of Parliament to continue private ways does not alter the liability of parties to repair them. *Anon. Lofft*, 465.

So, where *Southwark* chose scavengers by custom, the 14 *Car. II.* c. 2, which says, *constable and churchwardens, &c., shall meet in Easter week, and choose*, does not take away a custom to choose at the leet. *Dub.* 2 *Mod.* 41.

So, affirmative statutes do not take away a prior exemption. *Dougl.* 188.

An act lately made may be within the equity of an act made long since. See *Vernon's case*, 4 *Rep.* 1.

A statute extends to a provision made by a subsequent statute. Therefore, a statute shall be extended to cases provided by a subsequent statute; as, if extensors value goods too high, upon the stat. *Acton Burnel*, 13 *Edw. I.*, they shall take them at the same price as was provided by the stat. *de Merc.* 11 *Edw. I.* *Hard.* 211.

The st. *M. Ch.* 9, *Hen. III.* c. 9, which says, "*omnes barones de quinque portibus habeant omnes libertates, et consuetudines suas*," shall be restrained to such liberties as are not taken away by another branch of the same statute; and therefore they shall not hold *placita corone*. 2 *Inst.* 31.

A statute made in affirmance of the common law extends to all future times. 2 *Inst.* 236.

Words in new
act differing
from old.

New act does
not repeal old,
where it is not in-
tended to do so.

Affirmative words
do not take away
common law.

Nor a former cus-
tom.

Act lately made
within equity of
old act.

A statute extends
to a provision
made by a sub-
sequent act.

If a statute that repeals another is itself repealed afterwards, the first statute is hereby revived, without any formal words for that purpose. So, when the statutes of the 26 and 35 Hen. VIII., declaring the king to be the supreme head of the church, were repealed by a statute, 1 & 2 P. & M., and this latter statute was afterwards repealed by an act of 1 Eliz., there needed not any express words of revival in Queen Elizabeth's statute, but these acts of King Henry were impliedly and virtually revived. 4 *Inst.* 325.

But if a statute be repealed by several acts, a repeal of one act, and not of all, does not revive the first statute. 12 *Rep.* 8.

If an expired statute be afterwards revived by another statute, the law derives its force from the first. *Shipman v. Henbert*, 4 T. R. 109.

Where a statute professes to repeal absolutely a prior law, and substitutes other provisions on the same subject, which are limited to continue only till a certain time, the prior law does not revive after the repealing statute is spent, unless the intention of the legislature to that effect be expressed. *Warren v. Windle*, 3 *East*, 205.

No proceedings can be pursued under a repealed statute, though commenced before the repeal, unless by special exception. *Miller's case*, 3 *Wils.* 420; 1 *W. Bla.* 451, S. C.

A contract declared by a statute to be illegal is not made good by a subsequent repeal of the statute. *Jacques v. Wittey*, 1 *H. Bla.* 65.

When an act of Parliament is repealed, it must be considered (except as to transactions past and closed) as if it had never existed. *Per Lord Tenterden*, C. J., 9 B. & C., 752.

Acts of Parliament derogatory from the power of subsequent Parliaments bind not. So, the 11 Hen. VII. c. 1, which directs that no person, for assisting a king *de facto*, shall be attainted of treason by act of Parliament, or otherwise, is held to be good only as to common prosecutions for high treason; but will not restrain or clog any parliamentary attainder. 4 *Inst.* 43. Because the legislature, being in truth the sovereign power, is always of equal, always of absolute, authority: it acknowledges no superior upon earth, which the prior legislature must have been, if its ordinances could bind a subsequent Parliament. And, upon the same principle, Cicero, in his letters to Atticus, treats with a proper contempt these restraining clauses, which endeavour to tie up the hands of succeeding legislatures. "When you repeal the law itself," says he, "you, at the same time, repeal the prohibitory clause, which guards against such repeal." 1 *Bla. Com.* 90.

Acts of Parliament that are impossible to be performed are of no validity; and, if there arise out of them collaterally any absurd consequences, manifestly contradictory to common reason, they are, with regard to those collateral consequences, void. I lay down the rule with these restrictions; though I know it is generally laid down more largely, that acts of Parliament contrary to reason are void. But if the Parliament will positively enact a thing to be done which is unreasonable, I know of no power in the ordinary forms of the constitution that is vested with authority to control it; and the examples usually alleged in support of this sense of the rule do none of them prove that, where the main object of a statute is unreasonable, the judges are at liberty to reject it; for that were to set the judicial power above that of the legislature, which would be subversive of all government. But where some collateral matter arises out of the general words, and happens to be unreasonable, there the judges are in decency to conclude that this consequence was not foreseen by the Parliament, and therefore they are at liberty to expound the statute by equity, and only *quoad hoc* disregard it. Thus, if an act of Parliament gives a man power to try all causes that arise within his manor of Dale, yet, if a cause should arise in which he himself is party, the act is construed not to extend to that, because it is unreasonable that any man should determine his own quarrel. 8 *Rep.* 118. But, if we could conceive it possible for the Parliament to enact, that he should try as well his own causes as those of other persons, there is no court that has power to defeat the intent of the legislature, when couched in such evident

CONSTRUCTION OF STATUTES.

Where repealing statute repealed, the first statute revived.

Acts derogatory to the power of subsequent Parliaments bind not.

Statutes, enacting impossibilities, are invalid. So, where absurdities follow.

CONSTRUCTION OF STATUTES.

and express words as leave no doubt whether it was the intent of the legislature or no. *Id.*

If an act of Parliament is clearly and unequivocally expressed, with all deference to the learned commentator, I conceive it is neither void in its direct nor collateral consequences, however absurd and unreasonable they may appear. If the expression will admit of doubt, it will not then be presumed that the construction can be agreeable to the intention of the legislature, the consequences of which are unreasonable; but, where the signification of a statute is manifest, no authority less than that of Parliament can restrain its operation. *Id. Note by Christian.*

When good in part, though bad in rest.

Where a clause void by statute law is mixed up with good matter, entirely independent of it, the good part stands, the rest is void. *Horn v. Synge*, 15 *East*, 440.

Conflicting decisions on construction.

But if the part which is good depends upon that which is bad, the whole instrument is void. *Biddell v. Leeder*, 1 *B. & C.* 327; 2 *D. & R.* 449, *S. C.*

Where there are conflicting decisions upon the construction of a statute, the court must refer to that which ought to be the source of all such decisions: that is, the words of the statute itself. *Per Ld. Ellenborough*, 16 *East*, 122.

The judges are to be the construers.

The power of construing a statute is in the judges of the temporal courts, who, in cases of doubtful construction, are to mould them according to reason and convenience, to the best use. *Hob.* 346; *Plowd.* 109; 3 *Rep.* 7. And that the courts of common law are entrusted with the exposition of statutes, see *Gould v. Gopper*, 5 *East*, 370; 1 *Smith*, 528, *S. C.*

Effect of wrong construction.

It seems that, if the weight of authority be in construing an act of Parliament one way, however wrong that way may be, the courts are bound by it. See *Booth v. Ibbotson*, 1 *Y. & J.* 360; 1 *Bla. Com.* 91.

Stealing. See *Larceny*, Vol. III.

Steam-Engines. See *Malicious Injuries to Property*, Vol. III.; *Nuisance*, Vol. III.

Stocks.

IT is said that every vill, of common right, is bound to provide a pair of stocks. 2 *Haw. c.* 11, s. 5; *Kitch.* 13. See *Leet*, Vol. III.

They ought to be provided at the charge of the town; for, originally, they were not to punish, but to keep men in hold. 1 *Wood's Inst. b.* 4, c. 1.

And the constable, by the common law, may confine offenders in the stocks by way of security, but not by way of punishment.

But, by divers statutes, the stocks are also appointed for the punishment of offenders, in sundry cases, after conviction.

Stock in the Funds and of Companies.

AS to the Forgery of Stock in the funds or of companies, &c., see *Forgery*, Vol. II. The 1 *Wil. IV. c.* 66, repeals the 8 *Geo. I. c.* 22, relative to this offence.

Stocking-Frames.

[28 Geo. III. c. 25.]

AS to the Damaging of Stocking-frames, &c., see *Malicious Injuries to Property*, Vol. III. p. 727.

By the 28 Geo. III. c. 55, s. 1, if any framework-knitter, who shall rent or take by the hire any stocking-frame, either with or without any machine or engine thereto annexed, or therewith to be employed, shall refuse to yield up and re-deliver the same, with the machine or frame, to the person of whom he shall so rent it, after fourteen days' previous notice, he shall, on conviction by the oath or solemn affirmation of the owner or employer of such frame, or of any other witness, before one justice where the offence is committed, or where the person so charged shall inhabit, for every such offence forfeit 20s. to the poor; and, if not immediately paid, and such frame, &c., delivered up to the owner within six days after conviction, such justice shall commit such offender to gaol, or other public prison, to hard labour, for any time not exceeding three nor less than one calendar month.

Framework-knitters hiring frames, and refusing to return them on notice.

Sects. 2 and 3. If any person so renting or taking to hire any stocking-frame, with or without such machine, as aforesaid, shall sell or unlawfully dispose thereof, or the machine, &c., therewith let, without the consent of the owner; or shall wilfully and knowingly receive or purchase any such, so sold or unlawfully disposed of, as aforesaid, contrary to the true intent and meaning of this act, every such offender, being convicted upon indictment, shall suffer solitary imprisonment in the gaol or house of correction for not less than three nor exceeding twelve calendar months.

Persons so hiring frames, and selling them.

Stolen Goods. See *Accessary*, Vol. I.; *Larceny*, Vol. III.; *Search-Warrant*, *ante*, p. 353.

Stores, Naval and Military.

See *Cordage*, Vol. I.; *Bricks*, *post*.

[9 & 10 Wil. III. c. 41; 1 Geo. I. st. 2, c. 25; 9 Geo. I. c. 8; 17 Geo. II. c. 40; 9 Geo. III. c. 30; 12 Geo. III. c. 24; 39 & 40 Geo. III. c. 89; 49 Geo. III. c. 122; 54 Geo. III. cc. 60, 159; 55 Geo. III. c. 127; 56 Geo. III. c. 80; 4 Geo. IV. c. 53; 7 & 8 Geo. IV. c. 27.]

THE 7 & 8 Geo. IV. c. 27, repeals the prior statutes, 31 Eliz. c. 4, and 22 7 & Geo. 4, c. 27. Car. II. c. 5, as to embezzling and stealing the king's naval stores. See, however, the 4 Geo. IV. c. 53, *post*, 668, as to such offence.

By the 9 & 10 Wil. III. c. 41 (made public by the 1 Geo. I. st. 2, c. 25, 9 & 10 Wil. 2, c. 14), after reciting that, "notwithstanding divers good laws made and enacted, for the preventing of the stealing and embezzlement of his majesty's stores of war, and naval stores, those frauds, thefts, and embezzlements are frequently practised, and the convicting of such offenders is rendered difficult and impracticable, by reason it rarely happens that direct proof can be made of such offender's immediate taking, embezzling, or carrying away any of his majesty's said stores of war and naval stores out of or from his majesty's store-houses, docks, yards, ships, ordnance, or other places for keeping and preserving the same, but only that such goods are marked with the king's mark, and found in the custody and possession of the said person accused of stealing or embezzling the same, to the great encouragement of such wicked offenders, and to his majesty's and the kingdom's great damage: for preventing such embezzlements for the future, and for the more effectual execution of the laws and statutes already in force against such embezzlements and thefts," it is enacted, "that it shall not be lawful to or for any person or persons whatsoever, other than persons authorized by contracting with his majesty's principal officers or commissioners of the navy, ordnance, or victualling-office, for his

No warlike or naval stores, except for the king's use, shall be made with the king's marks, &c.

9 & 10 Will. 3, c. 41.

Penalty. majesty's use, to make any stores of war or naval stores whatsoever, with the marks usually used to and marked upon his majesty's said warlike and naval or ordnance stores; that is to say, any cordage of three inches and upwards, wrought with a white thread laid the contrary way, or any smaller cordage, to wit, from three inches downwards, with a twine in lieu of a white thread, laid to the contrary way as aforesaid, or any canvass wrought or unwrought, with a blue streak in the middle, or any other stores with the broad arrow, by stamp, brand, or otherwise, upon pain that every such person or persons, who shall make such goods so marked as aforesaid, not being a contractor with his majesty's principal officers or commissioners of the navy, ordnance, or victuallers, for his majesty's use, or employed by such contractor for that purpose as aforesaid, shall, for every such offence, forfeit such goods, and the sum of 200*l.*, together with costs of suit; one moiety whereof shall be to his majesty, and the other moiety to the informer, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, wherein no essoin, privilege, protection, wager of law, injunction, or order of restraint, nor more than one imparlance, shall be allowed."

Penalty on persons in whose custody such marked stores are found, &c. (a) Sect. 2. "That such person or persons, in whose custody, possession, or keeping, such goods or stores marked as aforesaid shall be found, not being employed as aforesaid, and such person or persons who shall conceal such goods or stores marked as aforesaid, being indicted and convicted of such concealment, or of the having such goods found in his custody, possession, or keeping, shall forfeit such goods, and the sum of 200*l.*, together with the costs of prosecution, one moiety to his majesty, and the other moiety to the informer, to be recovered as aforesaid, and shall also suffer imprisonment until payment and performance of the said forfeiture, unless such person shall, upon his trial, produce a certificate under the hand of three or more of his majesty's principal officers or commissioners of the navy, ordnance, or victuallers, expressing the numbers, quantities, or weights of such goods, as he or she shall then be indicted for, and the occasion and reason of such goods coming to his or her hands or possession."

Commissioners of the navy, ordnance, &c. may sell any of the said stores so marked, &c. Sect. 4. "That the said principal officers or commissioners of the navy, ordnance, or victualling-office for the time being, may sell and dispose of any of the stores aforesaid, so marked as aforesaid, as they did or might have done before the making of this act; and that such person or persons as heretofore have or shall hereafter buy any such stores, or other stores so marked as aforesaid, of the said principal officers or commanders, or by their order, may keep and enjoy the same without incurring the penalty of this act, or any law to the contrary whatsoever, upon producing a certificate or certificates under the hand and seal of three or more of the said principal officers or commissioners of the navy, ordnance, or victualling-office, that they bought such goods from them the said principal officers or commissioners, or from such person or persons as did buy the said stores from the said principal officers or commissioners, at any time before such stores were found in their custody; in which certificate or certificates the quantities of such stores shall be expressed, and the time when and where bought of the said commissioners, who, or any three or more of them, for the time being, are hereby empowered and directed, from time to time, to give to such person or persons, who shall desire the same, and have bought, and shall hereafter buy any of the aforesaid stores, within thirty days after the sale and delivery of the said stores so sold, or to be sold as aforesaid."

Buyer to have a certificate thereof, &c. Sect. 5. "That in case any person or persons shall be sued or prosecuted for or by reason of their discovering or seizing any such stores or goods so marked as aforesaid, that in every such case, such persons so sued or prosecuted, may plead the general issue, and give this act and the special matter in evidence. And in case, that upon the trial of such issue, the defendants so sued shall make proof, that such goods or stores, so discovered or seized by them, were so marked as aforesaid, and that the plaintiffs or prosecutors in such suit or prosecution shall not at such trial make good proof that they were so employed, or had such certificates as aforesaid, before such discovery and seizure made,

Persons sued may plead the general issue, &c.

Quantities to be expressed.

Buyer to have a certificate thereof, &c.

Commissioners of the navy, ordnance, &c. may sell any of the said stores so marked, &c.

unless he produce a certificate, &c.

and that they did show the same unto such defendants before such suit or prosecution commenced or brought, such defendant shall be acquitted and found not guilty thereupon; unless such defendants, upon sight of such certificate, did not deliver back unto such plaintiffs or prosecutors, at their request, or otherwise, all such goods and stores so seized, in as good plight and condition as they were at the time of such certificate shown; and in case any such defendants shall be so or otherwise acquitted on such trial, and that such plaintiffs or prosecutors shall discontinue such their suit or prosecution, or be nonsuited therein, such defendants shall recover treble costs."

The presumption of the *malus animus*, arising from the bare fact of possession of the goods may, of course, be rebutted by circumstances. 2 E. P. C. 765; *Coll. Statutes*, 112, note, post, p. 656, 657.

By the 1 Geo. I. st. 2, c. 25, s. 3, any of the principal officers or commissioners of the navy may issue warrants to search for naval stores, as justices may in cases of felony, and punish the offenders by fine not exceeding 20s., or imprisonment not exceeding one week, the value of the goods not exceeding 20s.; and if the offence requires a higher punishment, may commit him to the next gaol or to the custody of their messenger, till he finds surety or sureties to appear in the Exchequer, or other court, where the king shall question him for the same within one year, on process duly served for that purpose on such offender.

Sect. 6. And every person who shall counterfeit the hand of the treasurer, controller, surveyor, clerk of the acts, or of any commissioner of the navy, or the hand of the signing or vouching officer of his majesty's navy, ships, or yards, to any bill, ticket, or papers, by virtue whereof his majesty's naval treasure may be disposed of, or knowingly produce the same, he may be committed to prison by the said officers and commissioners, or any of them, until he find surety to appear at the next assizes or quarter sessions, to be there proceeded against according to law.

By the 9 Geo. I. c. 8, s. 3, reciting that, by the 9 & 10 Wil. III. c. 41, "a penalty of 200*l.*, with costs of prosecution and pain of imprisonment, is inflicted upon persons having in their custody, possession, or keeping, or concealing, contrary to the said act, any warlike, naval, or ordnance stores therein mentioned, or any other stores marked with the broad arrow, by stamp, brand, or otherwise: and whereas it is necessary to give power to mitigate the said penalties, and to explain and amend the said act," it is enacted, "that if any person or persons shall be lawfully convicted of having in his, her, or their custody, any timber, thick stuff, or plank, marked with the broad arrow, by stamp, brand, or otherwise, or of concealing any timber, thick stuff, or plank, so marked, every such person so offending shall suffer, forfeit, and pay, as for having, keeping, or concealing any other warlike, naval, or ordnance stores contrary to the said act."

Sect. 4. "That it shall and may be lawful to and for any judge, justice, or justices, before whom any offender or offenders shall be convicted of any of the crimes before recited, enacted, or mentioned in this act, to mitigate the penalty for the same, as he or they shall see cause, and to commit the offender or offenders so convicted to the common gaol of the county or place where the offence shall be committed, there to remain without bail or mainprize, until payment be made of the penalty and forfeiture imposed by this or the said former act, or mitigated as aforesaid, or to punish such offender or offenders corporally, by causing him, her, or them to be publicly whipped, or (a) committed to some public workhouse, there to be kept to hard labour, for the space of six months, or a less time, as to such judge, justice, or justices, in his or their discretion shall seem meet; anything in the said recited act or in any other act to the contrary notwithstanding." See the 17 Geo. II. c. 40, s. 10, post, p. 656.

(a) It is to be observed, that in this stat. 9 Geo. I. c. 8, s. 4, it is or committed. In the 17 Geo. II. c. 40, s. 10, it is and committed. See post, p. 656.

9 & 10 Wil. 3, c. 41.

1 Geo. I, st. 2, c. 25.
Summary Jurisdiction in cases of small embezzlements, &c.

Counterfeiting the hand of the treasurer, &c.

9 Geo. I, c. 8, having marked timber, altering 9 & 10 Wil. 3, c. 41.

Mitigation of penalties in last act.

17 Geo. 2, c. 40.

Justice of assize or quarter sessions may try offences relating to the stores, &c.

The 17 Geo. II, c. 40, also reciting, that "some doubts having arisen touching the method of trial and punishment of offenders against the said recited acts, whether, as the said acts are worded, such offender or offenders may be indicted and tried for the crimes and offences in the said acts mentioned, and whether any judge, justice, or justices of assize, or justices of the peace at the sessions, may hear, try, and determine the same, and on conviction set such fine, or mitigate the same, and the forfeitures and penalties inflicted by the aforesaid acts, on such offender or offenders, as the nature of the offences may deserve; or whether such offenders as aforesaid, in order for recovering the said forfeitures and penalties inflicted by the said act, can only be proceeded against by action of debt, bill, plaint, or information, in some of his majesty's courts of record at Westminster; by reason of which doubts, it has so happened, that offenders against the said recited acts, having been indicted for the same, have escaped unpunished, to the great encouragement of such offenders and others, to commit the like crimes and offences for the future; for the remedying whereof, and for the explaining the acts above mentioned," declares and enacts, "that it shall and may be lawful to and for any judge, justice, or justices at the assizes, or justices of the peace at the general quarter sessions to be holden for any county, city, borough, or town corporate, to hear, try, and determine, by indictment or otherwise, all or any the crimes or offences mentioned in the said recited acts; and that the said judge, justice, or justices of assize, or justices of the peace, as aforesaid, before whom such offender or offenders shall be indicted, or tried, and convicted of all or any the crimes or offences in the said recited acts mentioned, may impose any fine, not exceeding the sum of 200*l.* on such offender or offenders; one moiety to be paid to his majesty, and the other moiety to the informer; and may mitigate the said penalty and forfeitures, inflicted by the said recited acts, or either of them, and to commit the offender or offenders so convicted and fined to the common gaol of the county or place where the offence shall be committed; there to remain without bail or mainprize, until payment be made of the penalty and forfeitures imposed by this or the said former acts, so mitigated as aforesaid; or, in lieu thereof, to punish such offender or offenders in the premises corporally, by causing him, her, or them to be publicly whipped, and committed to some house of correction, or public workhouse, there to be kept to hard labour for the space of three months, or less time, as to such judge, justice, or justices of assize, or justices of the peace, shall in his or their discretion seem meet; anything in the said recited acts or in any other act to the contrary notwithstanding."

Decisions thereon.

Under this act the court have authority to adjudge the offender to suffer corporal punishment, although he be ready and offer to pay the penalty of 200*l.* *Bland's case*, 2 E. P. C. 760; 5 T. R. 370. In this case the defendant's counsel contended that, as their client could pay the penalty, the court had no authority to inflict corporal punishment. But the court said that the words of the statutes were in the disjunctive, enabling them either to impose a penalty, or to punish the offender corporally; and that this construction had already been put on the statutes in several instances, particularly in the case of *R. v. Newell*, M. 33, G. 3. And this appearing to the court to be a gross case, they sentenced the defendant to Clerkenwell Prison for three months, there to be kept to hard labour, and during that time to be publicly whipped on Clerkenwell Green for the space of 100 yards.

Though there was no instance prior to Trinity term, 46 Geo. III., in which the defendant had been ordered to pay the costs, the Court of King's Bench adjudged the defendant (*A. Chapple*) to pay the penalty of 200*l.*, together with the costs. 5 T. R. 371, (note a.)

The power of sentencing to hard labour is considered to be taken away by the 39 & 40 Geo. III. c. 69, s. 2. *R. v. Bridges*, 8 East, 53. The defendant was brought up to receive judgment after conviction on the 9 & 10 Wil. III. c. 41, s. 2, for unlawfully having in his possession naval stores, &c., and judgment was about to be pronounced that he should be imprisoned in the house of correction for the county of Surrey, and there kept to hard labour for three calendar months, and once during that time publicly whipped. This would

have been warranted by the 17 Geo. II. c. 40, s. 10, reciting the 9 & 10 Wil. III. c. 41, and 9 Geo. I. c. 8; but a doubt occurring how far the power of sentencing to hard labour was taken away by the subsequent stat. 39 & 40 Geo. III. c. 89, s. 2, the court, upon further consideration and comparing the different provisions of these statutes, were of opinion that the power of sentencing to hard labour was taken away by the latter statute, and therefore pronounced judgment that the defendant should be imprisoned in the house of correction for the county of Surrey for three calendar months, and be once during that time publicly whipped.

Decisions on
17 Geo. 3, c. 40.

By the 9 Geo. III. c. 30, s. 5, the treasurer, controller, surveyor, clerk of the acts, or any commissioner of the navy, may act as justices, in causing the offenders to be apprehended, committed, and prosecuted for the same.

9 Geo. 3, c. 30.

By the 12 Geo. III. c. 24, if any person shall, either in this realm, or in any other place thereto belonging, wilfully and maliciously set on fire, burn, or otherwise destroy, or cause or aid therein, any of his majesty's military, naval, or victualling stores or other ammunition of war, or any place where any such stores or ammunition shall be placed or kept, he, his aiders and abettors, shall be guilty of felony. And they who commit such offence out of the realm may be tried either where the offence was committed, or in any county within this realm. 2 *East's P. C.* 1094. See this enactment in full, *ante*, p. 500.

12 Geo. 3, c. 24.
Burning or destroying stores.

The 39 & 40 Geo. III. c. 89, recites the 9 & 10 Wil. III. c. 41; 9 Geo. I. c. 8; and 17 Geo. II. c. 40, s. 10; and reciting, that "notwithstanding the penalties and punishments inflicted by the said recited acts, the stealers, embezzlers, and receivers of his majesty's warlike and naval, ordnance, and victualling stores have greatly increased, so that it has become necessary to make some further and more effectual provision for preventing their wicked practices in future," enacts, "that from and after the passing of this act, every person or persons (such person or persons not being a contractor or contractors, or employed as in the said recited act of the 9th and 10th years of the reign of King William the Third is mentioned) who shall willingly or knowingly sell or deliver, or cause or procure to be sold or delivered, to any person or persons whomsoever, or who shall willingly or knowingly receive, or have in his, her, or their custody, possession, or keeping, any stores of war, or naval, ordnance, or victualling stores, or any goods whatsoever marked as in the said recited acts are expressed, or any canvass marked either with a blue streak in the middle, or with a blue streak in a serpentine form, or any bewper, otherwise called bunting, wrought with one or more streaks of raised tape (the said stores of war, or naval, ordnance, or victualling stores or goods above mentioned, or any of them, being in a raw or unconverted state, or being new, or not more than one-third worn), and such person or persons who shall conceal such stores or goods, or any of them, marked as aforesaid, shall be deemed receivers of stolen goods, knowing them to have been stolen, and shall, on being convicted thereof in due form of law, be transported beyond the seas for the term of fourteen years, in like manner as other receivers of stolen goods are directed to be transported by the laws and statutes of this realm, unless such person or persons shall, upon his, her, or their trial, produce a certificate under the hands of three or more of his majesty's principal officers or commissioners of the navy, ordnance, or victualling, expressing the numbers, quantities, or weights of such stores or goods, as he, she, or they shall then be indicted for, and the occasion and reason of such stores or goods coming to him, her, or their hands or possession."

39 & 40 Geo. 3,
c. 89.

Every person (not being a contractor, &c.) who shall sell or receive any new stores of war, &c. or who shall conceal them, shall be deemed receivers of stolen goods, and, as such, transported for fourteen years, unless he produces, on the trial, a certificate from the navy-board, &c.

Sect. 2. "That such person or persons (not being a contractor or contractors, or employed as aforesaid), in whose custody, possession, or keeping any of the said stores called canvass, marked with a blue streak in a serpentine form, or bewper, otherwise called bunting, wrought as above mentioned, shall be found (such canvass or bewper, otherwise called bunting, not being charged to be new, or not more than one-third worn), and all and every person and persons who shall be convicted of any offence contrary to so much of the said recited act of the 9th and 10th years of the reign of King William the Third, as relates to the

Persons in whose custody shall be found canvass or bunting, marked as herein mentioned (not being charged to be new, or not more than one-third worn), and per-

30 & 40 Geo. 3, c. 89.

Persons who shall be convicted of any offence contrary to so much of the recited act of 9 & 10 Wil. 3, as relates to warlike stores, shall, besides the forfeiture thereby imposed, suffer corporal punishment. Penalty, 200*l.*, may be mitigated.

Nothing herein, or in recited act of 9 & 10 Wil. 3, shall exempt contractors, &c., except so far as concerns stores which shall not have been before delivered into his majesty's store, unless they have been sold, or returned by the commissioners.

Defacing mark on his majesty's stores, felony.

Second offence.

Returning from transportation.

Mitigation of punishment.

making, or having in possession, or concealing any of his majesty's warlike, or naval, or ordnance stores, marked as therein specified, shall, besides forfeiting such stores, and the sum of 200*l.*, together with costs of suit as therein mentioned, be corporally punished by pillory, (a) whipping, and imprisonment, or by any or either of the said ways and means, in such manner and for such space of time as to the judge or justices before whom such offender or offenders shall be convicted, shall seem meet; anything in the said last-mentioned act, or in the before-recited acts of the 9th year of King George the First, and the 17th year of King George the Second, to the contrary thereof in anywise notwithstanding: provided always, that it shall and may be lawful to and for such judge or justices to mitigate the said penalty of 200*l.*, as he or they shall see cause."

Sect. 3. "That nothing in this act, or in the said recited act of the 9th and 10th years of the reign of King William the Third, contained, shall extend, or be deemed, taken, or construed to extend to exempt from the operation of this act, or the said recited act respectively, any person or persons being a contractor or contractors, or employed as in the said last-mentioned act is mentioned, except only so far as concerns stores or goods marked as aforesaid, which shall be *bonâ fide* provided, made up, or manufactured by such person or persons, or by their order, and which shall not have been before delivered into his majesty's store, unless having been so delivered, they shall have been sold or returned to such person or persons by the commissioners of his majesty's navy, ordnance, or victualling respectively."

Sect. 4. "That if any person or persons shall, from and after the passing of this act, wilfully and fraudulently destroy, beat out, take out, cut out, deface, obliterate, or erase, wholly or in part, any of the marks in the said act of the 9th and 10th years of the reign of King William the Third, or in this act mentioned, or any other mark whatsoever, denoting the property of his majesty, his heirs, or successors, in or to any warlike or naval, ordnance, or victualling stores, or cause, procure, employ, or direct any other person or persons so to do, for the purpose of concealing his majesty's property in such stores, such person or persons shall be deemed guilty of felony, and shall, on being convicted thereof, be transported to parts beyond the seas for the term of fourteen years, in like manner as other felons are directed to be transported by the laws and statutes of this realm."

Sect. 5. "That if any person or persons who shall hereafter be convicted of any offence contrary to this act, for which he shall not have been transported beyond the seas, or contrary to the said recited act of the 9th and 10th years of King William the Third, shall be guilty of a second offence, either contrary to that act or to this present act, which would not otherwise, as the first offence, subject him, her, or them to transportation, and shall be thereof legally convicted, such person or persons shall, by judgment of the court wherein he, she, or they shall be so convicted, be transported to parts beyond the seas for the term of fourteen years, in like manner as other offenders may be transported by the laws and statutes of this realm now in force."

Sect. 6. "That if any person or persons transported in pursuance of this act, shall return into any part of Great Britain or Ireland before the end or expiration of the term for which he or she shall have been so transported, every such person or persons so returning shall suffer as felons, and shall have execution awarded against him, her, or them, as persons attainted of felony without benefit of clergy."

Sect. 7. "That it shall and may be lawful to and for the court before whom any offender or offenders shall be indicted and convicted of all or any of the crimes or offences hereinbefore mentioned to be punishable with transportation, to mitigate or commute such punishment, by causing the offender or offenders to be set on the pillory, (a) publicly whipped, fined, or imprisoned, or by all or any one or more of the said ways and means, as such court in its discretion shall think fit; one moiety of which fine (if any imposed) shall be to his

(a) Abolished by 56 Geo. III. c. 138, except as to perjury and subornation thereof.

majesty, his heirs, and successors, and the other moiety thereof to the informer, and also to order such offender or offenders to be imprisoned until such fine be paid; anything hereinbefore contained to the contrary thereof in anywise notwithstanding."

Sects. 8, 9, and 10 give rewards for apprehending offenders.

Sect. 11. " That it shall and may be lawful to and for any commissioner of the navy, ordnance, or victualling, for the time being (who, for the purposes hereinafter mentioned, is hereby authorized to act in every respect as if he had been named as a justice of the peace in the commission of the peace for the county, city, division, town corporate, liberty, or place in which he shall be resident, or into which his warrant shall be issued), or any justice of the peace for any county, division, city, town corporate, liberty, or place, within this kingdom, upon the oath of one or more credible person or persons, that there is reason or cause to suspect that any navy, ordnance, or victualling stores or goods belonging to his majesty, his heirs or successors, are concealed in any dwelling-house, warehouse, workshop, outhouse, yard, garden, or other place, or on board any ship, vessel, barge, boat, or other craft, by warrant under his hand and seal, to cause every such dwelling-house, warehouse, workshop, outhouse, yard, garden, or place, ship, vessel, barge, boat, or other craft, in whatsoever county, division, city, town corporate, liberty, or place, the same or any of them shall be (in case such warrant shall be granted by a commissioner as aforesaid), to be searched in the day-time, by any police-officer, constable, headborough, or other peace-officer, either of the county, division, city, town corporate, liberty, or place in which the premises, ship, vessel, barge, boat, or other craft shall be, or in which the commissioner granting such warrant (if granted by a commissioner) shall then reside; and in case any stores or goods marked as hereinbefore or in the said recited act of the 9th and 10th years of King William the Third is mentioned, shall upon such search be found, to cause the same, and the offender or offenders, to be brought before such commissioner or justice of the peace, who is hereby required to commit or bind over, or otherwise to deal with such offender or offenders according to law, for such his or their offence; and that in case, upon any such search, or upon any seizure whatsoever of stores or goods, marked as aforesaid, any naval, ordnance, or victualling stores, not so marked as aforesaid, shall be found, which may reasonably be suspected to belong to his majesty, the party or parties in whose possession or keeping the same shall be found, shall be required to give to the commissioner or justice of the peace respectively before whom the said stores or goods shall and may be brought, an account to the satisfaction of such commissioner or justice, that the same were not embezzled or stolen from any of his majesty's ships or vessels, yards, storehouses, or other places, or that, if the same were embezzled or stolen, the same had come to the possession of the said party or parties honestly, and without any knowledge or suspicion that the same had been embezzled or stolen; on failure whereof by a reasonable time, to be set by such commissioner or justice of the peace, the said stores or goods shall thereupon become forfeited, and such party or parties shall be deemed and adjudged guilty of a misdemeanor."

Sect. 12. " That it shall and may be lawful for any person or persons deputed or appointed by the principal officers or commissioners of the navy, ordnance, or victualling, or any three of them respectively, at any time or times from and after the passing of this act, to stop, search, and detain in some place of safety, any barge, boat, or other craft, which there shall be reason to suspect doth contain any naval, ordnance, or victualling stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things stolen, embezzled, or unlawfully procured from or out of any of his majesty's ships or vessels, yards, storehouses, or other places, and also to apprehend and detain, or cause to be apprehended and detained, any person or persons who may be reasonably suspected of having or conveying any such stores or other things in such barge, boat, or craft, and such person or persons so apprehended shall be (as soon as conveniently may be) conveyed before any commissioner of the navy, ordnance, or victualling, for the time being, or before one or more justice or justices of the peace for the county, division, city, town corporate, liberty, or

39 & 40 Geo. 3.
c. 59.

Houses, &c. may
be searched
where stores are
suspected to be
concealed.

Persons deputed
may detain craft,
&c. suspected of
having stolen ar-
ticles on board.

20 & 40 Geo. 3,
c. 80.

place in which such seizure shall be made, together with the stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things so found in such boat or other craft; which said commissioner or justice is hereby required to commit or bind over, or otherwise to deal with such person or persons according to law, in respect to any of the said last-mentioned stores and things which shall be so marked as aforesaid; and in respect to any of such stores and things which shall not be so marked, but which shall nevertheless be reasonably suspected to be the property of his majesty, the said person or persons on whom the same shall be found shall be required to give an account, to the satisfaction of such commissioner or justice, that the same were not embezzled or stolen as aforesaid, or that, if they were embezzled or stolen, the same had come to his or their possession honestly, and without any knowledge or suspicion that the same had been embezzled or stolen; on failure whereof, by a reasonable time, to be set as aforesaid, the said last-mentioned stores or things shall thereupon become forfeited, and the said person or persons so apprehended shall be deemed and adjudged guilty of a misdemeanor; and in case the said person or persons shall be convicted of stealing, embezzling, or unlawfully having in his, her, or their possession any of the said stores or things which shall be so marked as aforesaid, or shall be adjudged guilty of a misdemeanor for not giving a satisfactory account as aforesaid, with respect to such of the said stores or things as shall not be so marked as aforesaid, such barge, boat, or other craft in which such stores or things, or any of them, shall be found, with its tackle, apparel, and furniture, shall, upon such conviction or adjudication, become and be adjudged by such commissioner or justice forfeited, and shall be disposed of in manner hereinafter mentioned."

Persons so de-
puted may ap-
prehend suspect-
ed persons.

Sect. 13. "That it shall and may be lawful to and for any person or persons deputed or appointed as aforesaid, or any police-officer, constable, headborough, or other peace-officer, or any beadle or watchman (during such time as he shall be on duty) of every parish and place where he shall be an officer, to apprehend and detain, or cause to be apprehended and detained, all and every person and persons who may reasonably be suspected of having or carrying, or anyways conveying any naval, ordnance, or victualling stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things stolen or unlawfully procured from or out of any of his majesty's ships or vessels, yards, storehouses, or other places, and also to seize and detain in some place of safety, such stores, materials, or things as last aforesaid; and, as soon as conveniently may be, to convey, or cause the person or persons so apprehended to be conveyed before any commissioner of the navy, ordnance, or victualling, or before any one or more justice or justices of the peace for any county, division, city, town corporate, liberty, or place in or near to the place of seizure, together with the said stores and other things; and such and the like proceedings shall and may be had and taken against the said person or persons, in respect of such last-mentioned stores or things, whether marked or not marked, and such forfeiture be incurred, and adjudication made, as are above directed with respect to stores found in any barge, boat, or other craft as aforesaid."

Articles herein
declared forfeited
to be returned
into his majesty's
stores.

Sect. 14. "That all and every the stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things, which are hereinbefore declared to be forfeited on the party or parties not giving to the commissioner or justice a satisfactory account that the same were not embezzled or stolen as aforesaid, shall be forthwith returned into his majesty's store, and shall be applied for the use and benefit of his majesty, his heirs and successors, unless proof shall be made within three calendar months next following such seizure, to the satisfaction of such commissioner or justice of the peace, that the same stores and other things are the property of any other person or persons; in which case the said commissioner or justice shall cause the same to be forthwith delivered up to such person or persons, on his or their giving a proper receipt or discharge for the same, and paying the reasonable costs and charges (to be set by such commissioner or justice), attending the conveyance thereof to and from his majesty's store, and the warehousing or safe custody thereof from the time of the seizure."

Craft, &c. for-
feited, may be
sold.

Sect. 15. "That it shall and may be lawful to and for such commissioner or

justice of the peace respectively, by whom any barge, boat, or other craft shall be adjudged to be forfeited in pursuance of this act, and he is hereby authorized and required forthwith, after such adjudication, to issue his warrant to the collector or other chief officer of the customs at the port at or nearest to the place where such seizure shall be made, for the sale of such barge, boat, or other craft; which said collector or other chief officer, by virtue thereof, shall and is hereby authorized and required, within one month then next following, to cause such barge, boat, or other craft, together with its tackle, apparel, and furniture, to be publicly sold to the highest bidder, notice of which sale shall be given in some or one of the public papers in circulation in the city, town corporate, or place where such sale shall be made; and the money arising from such sale, after payment of the reasonable expenses and charges attending the same, and of securing such barge, boat, or other craft from the time of the seizure thereof (to be ascertained by such commissioner or justice of the peace) shall thereupon be forthwith paid by such collector or other officer of the customs into the hands of such commissioner or justice of the peace respectively, and be by such commissioner or justice within one calendar month then next following paid and disposed of in the manner following; (that is to say,) one moiety thereof to the person or persons (or his or their representatives, if dead) who shall have made seizure of such barge, boat, or other craft, and the other moiety thereof to the treasurer of his majesty's navy for the time being (in case the stores seized shall be naval or victualling stores), to be by him applied in such and the same manner as the monies arising from the sale of old stores in his majesty's dock-yards now are, or for the time being shall be applicable; and in case the stores seized shall be ordnance stores, then the said other moiety shall be paid to the treasurer of his majesty's ordnance for the time being, to be by him applied in such manner for the use of his majesty, as the master-general and principal officers of his majesty's ordnance for the time being shall order and direct."

39 & 40 Geo. 3,
c. 80.

Sect. 16. "That every person deemed and adjudged guilty of any of the misdemeanors aforesaid, before any commissioner or justice of the peace as aforesaid, shall for every such misdemeanor forfeit for the first offence the sum of 40s., for the second offence the sum of 5*l.*, and for the third and every subsequent offence the sum of 10*l.*, over and above the other forfeitures above mentioned; all which said respective forfeitures shall and may be levied by distress and sale of the goods and chattels of every such offender (rendering to him or them the overplus, after the charges of the said distress and sale deducted), by warrant under the hand and seal of such commissioner or justice of the peace, before whom such offender was convicted, directed to any constable or other peace-officer of the county, division, city, town corporate, liberty, or place, and shall be disposed of in the manner following; (that is to say,) one moiety to the person or persons apprehending such offender or offenders, or giving information, as the case shall be, and the other moiety thereof to the treasurer of the navy or ordnance for the time being, as the case may require, to be applied as before mentioned; and in case the constable or other peace-officer to whom such warrant shall be directed, shall return to such commissioner or justice of the peace that the offenders or offender named therein have not or hath not any goods or chattels in his county or constablewick, whereby he can levy the said penalty (which return the said constable or other peace-officer is hereby required in that case to make within a reasonable time, to be set by the said commissioner or justice of the peace, and during which time the said offenders or offender shall be kept in safe custody by the order of such commissioner or justice of the peace), then and in such case the said commissioner or justice shall, and he is hereby required, by warrant under his hand and seal, directed as aforesaid, to cause such offenders or offender to be committed to the common gaol of the county, division, city, town corporate, liberty, or place, in which such seizure shall have been made, there to remain without bail or mainprize for the space of three calendar months, unless such penalty shall be sooner paid."

Penalty on persons guilty of misdemeanors.

Sect. 17. "That every adjudication in any of the said misdemeanors shall be certified by the commissioner or justice of the peace making the same, to

Adjudications of misdemeanors to be certified to the sessions.

39 & 40 Geo. 3,
c. 89.

One commis-
sioner or justice
may determine
offences, where
the value of the
storea does not
exceed 20s.

the next general or quarter sessions of the peace for the county, division, city, town corporate, or place in which such seizure shall be made, to be filed and entered amongst the records of the said session; and such conviction shall not be set aside or quashed for want of form, nor be liable to be removed by *certiorari*, advocacy, or suspension into any other court, but shall be deemed and taken to be final to all intents and purposes whatsoever."

Sect. 18. "That it shall and may be lawful to and for any principal officer or commissioner of the navy, ordnance, or victualling for the time being, or any justice of the peace for any county, division, city, town corporate, liberty, or place within this kingdom, to hear and determine any complaint against any person or persons (not being a contractor or contractors, or employed as aforesaid) for unlawfully selling or delivering, or causing or procuring to be sold or delivered, or for receiving or having in his, her, or their custody, possession, or keeping, or for concealing any stores of war, or naval, ordnance, or victualling stores or goods marked with such marks respectively as are hereinbefore mentioned, of any value, in the whole not exceeding 20s.; which said commissioner or justice respectively is hereby authorized and required, upon any information exhibited or complaint made in that behalf, at any time within three calendar months next after any such offence shall have been committed, to cause the party or parties accused to be apprehended and brought before him; or if he, she, or they shall have absconded, or cannot be found, then to be summoned to appear before such commissioner or justice, by a notice or summons left at his, her, or their last or usual place of abode; and also to cause the witnesses on either side to be summoned; and such commissioner or justice shall examine into the matter of fact, and upon due proof made thereof, either by the voluntary confession of the party or parties, or by the oath of one or more credible witness or witnesses (which oath the said commissioner or justice respectively is hereby authorized to administer), give judgment or sentence accordingly; and in case the party or parties accused shall be convicted of such offence, then it shall and may be lawful to and for such commissioner or justice of the peace respectively to inflict a fine of 10*l.* upon him, her, or them, for such his, her, or their offence; which said fine so inflicted shall be divided and distributed, one moiety thereof to the informer or discoverer of the offence, and the other moiety thereof (the necessary charges for the recovery thereof being first deducted) to the treasurer of his majesty's navy or ordnance, as the case may be, to be by him applied in such manner as hereinbefore mentioned with respect to the produce of barges, boats, or other craft seized and sold under the authority of this act, and to award and issue out his warrant under his hand and seal for levying such fine so adjudged on the goods of the offender or offenders, and to cause sale to be made thereof for payment of such fine and the reasonable charges of distress, (to be judged of by such commissioner or justice respectively,) in case they shall not be redeemed within six days, rendering to the party the overplus, if any; and where sufficient goods of the party cannot be found to answer the said fine, to commit the said offender or offenders to the common gaol of the county, division, city, town corporate, liberty, or place, for the space of three calendar months, unless such fine shall be sooner paid, or in lieu of such fine, to cause such offender or offenders to be imprisoned and kept to hard labour in the house of correction for the space of three calendar months, as to such commissioner or justice of the peace respectively shall be thought fit; and every such commissioner or justice shall cause the amount of every such last-mentioned moiety of fine which he shall so receive, and also the moiety of every sum arising from the sale of any barge, boat, or other craft sold under the authority of this act and paid into his hands as aforesaid, to be paid into the hands of the said treasurer of the navy or ordnance, within thirty days after the expiration of the year in which such fines shall be received by him, or in default thereof such commissioner or justice respectively shall forfeit the sum of 50*l.*, to be recovered with double costs of suit, by any person or persons who shall sue for the same by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, or Court of Exchequer in Scotland, wherein no essoin, protection, or wager of law, nor more than one imparlance, shall be allowed; one moiety of

which last-mentioned fine shall go to his majesty, his heirs and successors, and the other moiety thereof to him or them who shall sue for the same as aforesaid."

30 & 40 Geo. 3,
c. 80.

Sect. 19. "That it shall and may be lawful to and for the said commissioner or justice before whom any person shall be convicted in a summary way as aforesaid (if he shall see cause), to mitigate and lessen any such before-mentioned fine of 10*l.*, to be inflicted in that behalf; as he shall think fit (the reasonable costs of the officers and informers, as well in making the discovery as in prosecuting the same, being always allowed over and above such mitigation), and so as such mitigation do not reduce the fine to less than one moiety of the said sum of 10*l.*, over and above the said costs and charges; any thing contained in this act to the contrary thereof in anywise notwithstanding."

Fines may be mitigated.

Sect. 20. "That in case such commissioner or justice of the peace shall, upon the hearing and determining of such complaint as aforesaid, adjudge the offender or offenders, in lieu of a fine, to be imprisoned and kept to hard labour as aforesaid, that then the informer, or person or persons who shall have discovered such offender or offenders, shall have and receive, as a reward for such his, her, or their discovery, the sum of 5*l.* for every such offence so discovered; and the principal officers and commissioners of his majesty's navy, ordnance, or victualling, as the case may require, shall cause the said reward of 5*l.* to be paid by the treasurer of the navy or ordnance respectively for the time being, out of any public money in his hands, upon such informer or other person producing to them a certificate under the hand and seal of the commissioner or justice of the peace who shall have convicted such offender or offenders as aforesaid, certifying such conviction and the punishment which he hath inflicted upon the offender or offenders; and the name or names of the person or persons who in his judgment is entitled, and in what proportion or proportions, to such reward; which certificate the said commissioner or justice of the peace respectively is hereby required to give without fee or reward; and the money paid by any such treasurer on account of such last-mentioned rewards shall be allowed in his accounts, and he shall be discharged thereof accordingly; any law, custom, or usage to the contrary thereof in anywise notwithstanding: provided also, that no such summary proceeding as before mentioned shall be had before any justice of the peace under the authority of this act, without the consent in writing of the principal officers or commissioners of his majesty's navy, ordnance, or victualling for the time being, or one of them, for that purpose first had and obtained; and that every adjudication or sentence to be had or given without such consent as aforesaid, shall be null and void, to all intents and purposes whatsoever."

If in lieu of a fine the offender be imprisoned, the informer to receive a reward of 5*l.*

Sect. 21. "That if any person or persons shall find himself, herself, or Appeal. themselves aggrieved by the judgment of any such commissioner or justice, touching or concerning any such stores as last aforesaid, under the value of 20*s.*, then he, she, or they shall or may, upon entering into a recognizance to his majesty, with one or more surety or sureties, to the satisfaction of such commissioner or justice, to the amount of treble the value of such fine, appeal to the justices of the peace at their next general quarter sessions of the peace for the county, division, city, town corporate, liberty, or place wherein the offence was committed, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment shall be affirmed, it shall and may be lawful for such justices of the peace to award the person or persons so appealing to pay such costs occasioned by such appeal as to them the said justices shall seem meet, and to enforce payment thereof, according to the course and practice of such court."

Sect. 22. "That the commissioner or justice of the peace before whom any Conviction. offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following, or in any other form of words to the like effect, *mutatis mutandis*; which conviction shall be good and effectual to all intents and purposes, without stating the case, or the facts or evidence, in any more particular manner; (that is to say,)

"Be it remembered, that on the day of , in the year of our Lord , A. B., of of , was convicted

39 & 40 Geo. 3,
c. 49.

before me, C. D., one of the commissioners of his majesty's of his majesty's justices of the peace for the [or, one as the case may be], for that the said A. B., on the day of now last past, at the of, in the said of, did [here state the offence against the act], contrary to the statute in such case made and provided.
"Given under my hand and seal, the day of, in the year of our Lord ."

Certiorari.

Which conviction the said commissioner or justice shall cause to be written fairly upon parchment or paper, and returned to the next general quarter sessions of the peace for the county, division, city, town corporate, liberty, or place where such conviction was made, to be filed by the clerk of the peace, and there to remain and be kept among the records of the same county, division, city, town corporate, liberty, or place; and the same shall not be removed by *certiorari*, *advocation*, or suspension, into any court whatsoever."

Witnesses not appearing.

Sect. 23. "That if any person or persons shall be summoned as a witness or witnesses, to give evidence before such commissioner, or justice or justices of the peace, touching any of the matters relative to this act, either on the part of the prosecutor or the party or parties accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his, her, or their neglect or refusal, to be allowed by such commissioner or justice or justices of the peace before whom the seizure, complaint, or prosecution shall be depending, that then every such person shall forfeit for every such offence the sum of 10*l.*, to be recovered, levied, and paid and applied, in such manner and by such means as is above directed with respect to fines on summary convictions."

Not to prevent offenders being prosecuted as receivers of stolen goods.

Sect. 24. "That nothing hereinbefore contained which gives to any commissioner or justice of the peace power or authority to hear and determine offences in a summary way, shall extend, or be deemed, construed, or taken to extend, to prevent the party or parties accused of selling or delivering, or of having in his, her, or their custody, possession, or keeping, or of receiving or concealing any of the stores marked as above mentioned, under the value of 20*s.*, from being prosecuted as receivers of stolen goods under this act, or for unlawfully having the same in his, her, or their custody, or concealing the same, under the said recited acts of the ninth and tenth years of the reign of King William the Third, the ninth year of the reign of King George the First, or the seventeenth year of the reign of King George the Second, in any court of record, oyer and terminer, or otherwise, as they might have been if no such power or authority had been given; or to take away from any person or court whatsoever any power, right, jurisdiction, pre-eminence, or authority, which he or they, or any of them, ought lawfully to have had and enjoyed for the hearing and determining of such offences, in case no such power or authority to hear and determine the same in a summary way had been given, so as that the same person shall not be punished twice for the same offence."

Sect. 25. "That the said commissioners of the navy, ordnance, or victualling for the time being, may sell and dispose of any of the stores aforesaid so marked as aforesaid, as they did or might have done before the making of this act; and that such person or persons as heretofore have or shall hereafter buy any such stores or other stores so marked as aforesaid, of the said respective commissioners, may keep and enjoy the same, without incurring the penalty of this act, or any law to the contrary whatsoever, upon producing a certificate or certificates, under the hand and seal of three or more of the said commissioners, that they bought such goods or stores from them at any time before they sold or delivered the same, or before the same were found in their custody, or a certificate from such person or persons as shall appear to have bought the said stores from them the said commissioners, that the stores so sold or delivered by them, or so found in their custody, were the stores or part of the stores so bought of the said commissioners as aforesaid; in which certificate or certificates, the quantities of such stores shall be expressed, and the time when and where bought of the said commissioners, who, or any three or more of them for the time being, and also the person or persons afterwards selling the same, are hereby empowered and directed from time to time to give such cer-

tificate to such person or persons as shall desire the same, and have bought and shall hereafter buy any of the aforesaid stores, within thirty days after the sale and delivery thereof."

Sect. 26. "That if any person or persons shall make, sign, or give any false certificate, bill of parcels, or other instrument, purporting the identity or the sale or disposal of any goods or stores as goods or stores so purchased of the said commissioners as aforesaid, or if any person or persons shall utter or publish any such false certificate, bill of parcels, or other instrument purporting as aforesaid, knowing the same to be false, every such offender, upon conviction thereof in due form of law, shall forfeit the sum of 200*l.*, and be further corporally punished, as by this act is directed with respect to persons having in their possession or concealing his majesty's warlike, naval, or ordnance stores, contrary to the said act of the ninth and tenth years of King William the Third; one moiety of which penalty shall be to his majesty, his heirs and successors, and the other moiety thereof, with full costs of suit, to the informer, to be recovered in such manner as the penalty of 200*l.*, inflicted by the said last-mentioned act, is by that act or any law now in force made recoverable."

Sect. 28. "That every commissioner of the navy, ordnance, or victualling, acting in the execution of this act, shall have and be entitled to the benefit and protection given to the justices of the peace in and by an act of Parliament made in the seventh year of the reign of the late King James the First, intituled, 'An Act for Ease in Pleading troublesome and contentious Suits prosecuted against Justices of the Peace, Mayors, Constables, and certain other his Majesty's Officers, for the lawful Execution of their Office;' and also in and by one other act of Parliament, made in the twenty-first year of the reign of the said late King James, intituled, 'An Act to enlarge and make perpetual the Act made for Ease in Pleading against troublesome and contentious Suits prosecuted against Justices of the Peace, Mayors, Constables, and certain other his Majesty's Officers, for the lawful Execution of their Office, made in the seventh Year of his Majesty's most happy Reign;' and also in and by one other act of Parliament, made in the twenty-fourth year of the reign of his late Majesty King George the Second, intituled, 'An Act for rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in Obedience to their Warrants,' in as full and ample manner and form as if such commissioner had been a justice of the peace within the true intent and meaning of the said acts of Parliament, or any of them; and that all and every constable, headborough, or other peace-officer, or person acting under the warrant or authority of such commissioner in pursuance of this act, shall, besides the protection given to persons making seizures as above mentioned, have and be entitled to the full benefit and protection of the said several last-mentioned acts of Parliament, in the same manner to all intents and purposes as if he or they had acted under the warrant or authority of a justice of the peace within the meaning of the same acts."

Sect. 36. "That if any person, upon examination upon oath or affirmation before any commissioner of the navy, ordnance, or victualling respectively, or before any justice of the peace in Great Britain, in any matter relating to the execution of this act, shall wilfully and corruptly give false evidence, or shall, in any information or deposition sworn, or affirmation taken in writing before any such commissioner or justice, wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof lawfully convicted, shall be and is hereby declared to be subject and liable to the like pains and penalties as any persons convicted of wilful and corrupt perjury are by any law now in force subjected and liable to."

By the 49 Geo. III. c. 122, s. 17, "all persons who shall trade or deal in buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any kind or description, shall have their names with the words 'dealer in marine stores,' painted distinctly in letters of not less than six inches in length

30 & 40 Geo. 3,
c. 80.

Penalty for giving false certificates.

Magistrates, &c. to have the protection afforded by the 24 Geo. 2, c. 44. (a)

Persons giving false evidence.

Dealers in marine stores shall have their names painted on their store houses. (b) Penalty, 20*l.*

(a) See this enactment, *ante*, *Justices*, *post*; 1 & 2 Geo. IV. c. 75, s. 16, *post*, Vol. III. p. 490.

(b) See, also, the 59 Geo. III. c. 159,

Black.

49 Geo. 3, c. 122.

Such dealers shall not cut up cables without a permit from a magistrate, to be granted on affidavit, &c.

Dealers shall keep an account of old stores bought by them.

Shall advertise before cutting up of cordage.

Inspection of such accounts may be demanded by parties interested.

Penalties on dealers for neglect.

upon the front of all their storehouses, warehouses, and other deposits for such goods; and in default of their so doing, they shall, on conviction before any justice or justices of the peace, or magistrate or magistrates of any jurisdiction where such storehouse, warehouse, and depot shall be, upon the oath of one credible witness, or on confession of the party offending, forfeit and pay a sum not exceeding 20*l.*, nor less than 10*l.*, one half of which penalty shall be paid to the informer, and the other half to the poor of the parish or township where such offence shall be committed; and that it shall not be lawful for such dealers or traders to cut up any cable, or any part of a cable, exceeding five fathoms in length; or uncant, untwine, or unlay the same into junk or paper-stuff, on any pretence whatsoever, without first obtaining a permit from some justice of the peace or magistrate residing near to the residence of such dealer, which permit shall not be granted unless an affidavit shall have been made that the cable so intended to be cut up had been *bonâ fide* purchased, and without fraud, by the party so intending to cut up the same, and without any knowledge or suspicion on his or her part that the same had been or were dishonestly come by; and in which affidavit shall also be specified the particular quality and description of such cable, and the name or names of the seller or sellers thereof, which affidavit shall be recited and set forth at length in the permit thereupon granted, on pain of forfeiting for the first offence any sum not exceeding 20*l.* nor less than 10*l.*, and for every second or further offence any sum not exceeding 50*l.* nor less than 20*l.*, to be recovered before any justice of the peace, and one half thereof to go to the informer, and the other half to the poor of the parish in which such offence shall have been committed."

Sect. 18. "That for the more effectual prevention of such frauds, all dealers in such marine stores as aforesaid shall keep a book or books fairly written, in which entries shall be from time to time regularly made of all such old marine stores as shall be by them from time to time bought, containing a true account and description of the times when the same were so respectively bought by them, and of the names and places of abode of the respective sellers thereof: and before any person who shall obtain such permit for the cutting up of any such cable (as hereinbefore required to be obtained) shall proceed to cut up the same by virtue thereof, there shall be published by the space of one week at least before the cutting up the same, one or more advertisement or advertisements in some public newspaper, printed nearest to the storehouse, warehouse, or depot where the articles shall be deposited, notifying that such party had obtained such permit for the purpose of cutting up such cable, and of such kind and quality as therein described, and also specifying the place where such articles shall be deposited; whereupon it shall be lawful for all and every person or persons who may have just cause to suspect that such articles are the property of such person or persons, and shall have verified upon oath the fact of such his, her, or their suspicion before any justice of the peace or magistrate residing near to the said storehouse, warehouse, or depot, by warrant for that purpose thereupon granted, to require of and from such dealer who shall have so advertised, and shall be sworn to be suspected as aforesaid, the production and examination of the book or books of entries hereby required by him or her to be kept, and inspect and examine the cables described in such permit; and in case any such dealer, when so thereunto required as aforesaid, shall neglect or refuse to produce to the person named in such warrant as the person on whose oath the same shall have been obtained, the book or books containing the entries of such dealer so required to be made therein as aforesaid, or shall neglect to keep any such book or books in which entries containing accounts of the several particulars hereinbefore required to be entered shall be made, or to permit such inspection or examination as aforesaid, or shall, after obtaining such permit for the cutting up of any such cable, and before the cutting up of the same, neglect to publish such one or more advertisement or advertisements relative thereto as is hereinbefore directed and required, the dealer or dealers so offending in all or any of the particulars hereinbefore mentioned shall forfeit and pay for every such offence, being his, her, or their first offence, any sum not exceeding 20*l.* nor less than 10*l.* and for every second or further offence any sum not exceeding 50*l.* nor less than 20*l.*, one half of which penalty shall,

on conviction before any justice of the peace or magistrate residing near as aforesaid, be paid to the informer, and the other half to the poor of the parish or township in which such offences shall be committed; and in case any of the penalties by this act imposed shall not be paid, with the charges incident to the conviction, immediately upon such conviction, the same shall and may be levied by warrant under the hand and seal of such justice of the peace or magistrate, upon the goods and chattels of any such offender or offenders; and in case no sufficient distress shall be found, then every such offender or offenders shall and may be committed by any such justice of the peace or magistrate as aforesaid, to gaol, in case of any first offence for the space of six calendar months, and in case of any second or further offence, for the space of twelve calendar months, unless the said penalty and the charges shall be sooner paid."

The 21st section of this act relates to the power of appeal; see the enactment, *ante*, *Cordage*, Vol. I.

By the 54 Geo. III. c. 60, after reciting that "the marks usually put to his majesty's cordage are frequently taken out of the same for the purpose of concealing his majesty's property therein; and it is expedient that other marks should be used in his majesty's cordage for the purpose of denoting his majesty's property therein;" it is enacted, "that from and after the passing of this act, all and every the pains, penalties, forfeitures, regulations, restrictions, powers, provisions, matters, and things, in respect to the making, selling, delivering, receiving, having in possession, and concealing any cordage wrought either with a white thread laid the contrary way, or with a twine laid to the contrary way, mentioned and contained in 9 & 10 Wil. III. c. 41, and also in 39 & 40 Geo. III. c. 89; or in any other act or acts of Parliament; and shall extend to the making, selling, delivering, receiving, having in possession, and concealing any cordage wrought with one or more worsted threads, as fully and effectually, to all intents and purposes, as if the same several pains, penalties, forfeitures, regulations, restrictions, powers, provisions, matters, and things were herein and hereby repeated and re-enacted in respect to such last-mentioned cordage: provided always, that nothing herein contained shall extend, or be construed to extend, to repeal any of the statutes now in force, or any of the clauses, matters, and things, therein contained, in respect to cordage wrought either with a white thread laid the contrary way, or with a twine laid to the contrary way, but that the same marks may be continued to be used to denote his majesty's property in such cordage, in the same manner as if this act had not been passed."

By the 54 Geo. III. c. 159, s. 10, all persons, except such as are duly licensed thereto by a commissioner of his majesty's navy, are prohibited from creeping or sweeping for anchors, cables, ropes, rope-yarns, or other stores, lost, or supposed to be lost, in harbours, &c. within certain prescribed limits, under a penalty of 10*l*.

The 55 Geo. III. c. 127, recites the 9 & 10 Wil. III. c. 41; 9 Geo. I. c. 8; 17 Geo. II. c. 40; 40 Geo. III. c. 89; 52 Geo. III. c. 12; 53 Geo. III. c. 126, and repeals the last-mentioned act, and enacts, "that from and after the passing of this act, not only the said recited act of the ninth and tenth year of the reign of King William the Third, but also the said several other acts of the ninth year of the reign of King George the First, the seventeenth year of the reign of King George the Second, and the fortieth year of the reign of his present majesty, hereinbefore recited, so far as the same severally relate to his majesty's naval, ordnance, and victualling stores, therein respectively mentioned, and all the pains, penalties, forfeitures, regulations, restrictions, powers, provisions, clauses, matters, and things therein respectively contained, relating to his majesty's naval, ordnance, and victualling stores, therein respectively mentioned, shall extend, and be construed to extend, to all public stores whatsoever, under the care, superintendence, or control, of any officer or person in the service of his majesty, his heirs or successors, or employed in any public department or office, either marked with the marks, or any of them, in the said recited acts, or any of them, specified, or with the broad arrow and the letters

40 Geo. 3 c. 122.

54 Geo. 3, c. 60.

Provisions of the 9 & 10 Wil. 3, c. 41, and 39 & 40 Geo. 3, c. 89, extended to cordage worked with worsted threads.

54 Geo. 3, c. 159. Persons prohibited from sweeping harbours for lost stores.

55 Geo. 3, c. 127.

Recited acts of 9 & 10 Wil. 3, c. 41; 9 Geo. 1, c. 8; 17 Geo. 2, c. 40; 40 Geo. 3, c. 89; so far as relates to naval stores, shall extend to all public stores, and to all persons intermeddling therewith, not authorized.

55 Geo. 3, c. 127.

B. O., or with a crown and the broad arrow, or with his majesty's arms, or with the letters G. R., to denote the property of his majesty, his heirs or successors, therein, and to all and every person and persons not authorized by the proper officer or officers, person or persons, in his majesty's service, in that behalf so to do, using any such marks, or making any goods marked with such marks, or any of them, and to all and every person and persons, in whose custody, possession, or keeping, any such public stores, so marked as aforesaid, shall be found, or who shall willingly or knowingly receive or have in his, her, or their custody, possession, or keeping, or who shall conceal any such public stores so marked as aforesaid, unless such person or persons shall, upon his, her, or their trial, produce a certificate or certificates, under the hand or hands of the proper officer or officers, person or persons in his majesty's service, authorized to grant the same, of such and the like nature as the certificate, in the said recited acts of the ninth and tenth year of the reign of King William the Third, and fortieth year of the reign of his present majesty, mentioned, and to all and every person and persons who shall wilfully and fraudulently destroy, beat out, take out, cut out, deface, obliterate, or erase, wholly or in part, any of the said marks, or cause, procure, employ, or direct any other person or persons so to do, for the purpose of concealing the property of his majesty, his heirs or successors therein, as fully and effectually, to all intents and purposes, as if all the same several pains, penalties, forfeitures, regulations, restrictions, powers, provisions, clauses, matters, and things in the said several acts contained, so far as the same severally relate to his majesty's naval, ordnance, and victualling stores; and the punishment of persons, offending in manner therein mentioned, were herein and hereby severally repeated and re-enacted, in respect to all other public stores whatsoever."

56 Geo. 3, c. 80.
Principal officers
and commissioners
of the navy
at foreign stations
may grant
certificates of
stores sold by
them.

By the 56 Geo. III. c. 80, it is enacted, "that from and after the passing of this act it shall and may be lawful to and for all and every, or any one of the principal officers and commissioners of his majesty's navy, resident on any foreign station, to grant certificates under his or their respective hand or hands, for any such stores or goods which shall hereafter be sold by, or by the order of any such principal officer or commissioner, at any such foreign station, of such and the same, or the like tenor and effect, and that the same certificates so to be granted as aforesaid shall be in all places of such and the same force and effect as certificates under the hands of three or more of the principal officers and commissioners of the navy in England are of, for any such stores or goods sold by or by the order of the said commissioners in England."

4 Geo. 4, c. 53.
Stealing or em-
bezzling king's
stores,

transportation or
imprisonment.

By the 4 Geo. IV. c. 53, it is enacted, "that, from and after the passing of this act, every person who shall be lawfully convicted of stealing or embezzling his majesty's ammunition, sails, cordage, or naval or military stores, or of procuring, counselling, aiding, or abetting any such offender, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding seven years." See the 1 Geo. I. st. 2, c. 25, s. 3, *ante*, p. 655, as to summary punishment.

Mutiny Act.

By the annual Mutiny Act, certain persons in the army, guilty of any of the offences aforesaid, may be tried and punished by a court-martial.

Decisions on sta-
tutes.

Habiliments extend to harness, and all utensils that belong to war. 3 Inst. 79.

Embezzle, &c., to the Value of 20s.—Though the statute 31 Eliz. c. 4, only spoke of embezzling or stealing stores to the value of 20s., still any of the officers who had a bare charge of the stores in the king's warehouses, or a mere authority to deliver them out, may be guilty of felony at common law in stealing them, to any amount, from such places of deposit. Accordingly, in *Thorne's case*, 2 East's P. C. 622, where it appeared that the prisoner was foreman of one of the storehouses in Plymouth Dock, containing naval stores, and had given security in 200*l.* for the faithful discharge of his duty, and was entrusted with the receiving and delivering out again of the stores in the absence of the clerk,

whose proper duty it was, when present; and that certain kersey was cut off by him from a bale in the stores, and delivered by him to an accomplice to be taken out of the yard, though the value were under 20s., he was, by the direction of the court, convicted of larceny at common law in stealing the kersey.

Receive or have in his Possession].—Under the statutes for protecting the king's stores, the king's mark denotes the original ownership; and there the *onus probandi* lies on the party to account satisfactorily for his possession, according to the regulations prescribed; otherwise, the bare fact of possession concludes him. But even here the presumption of the *malus animus* arising from the bare fact of possession may be rebutted by circumstances, as in the following case:—A widow woman was indicted before Mr. Justice Foster, upon the western circuit, on the 9 & 10 Wil. III. c. 41, for having in her custody divers pieces of canvass, marked with the king's mark, in the manner described in the act, she not being a person employed by the commissioners of the navy to make the same for the king's use. The canvass was marked as charged in the indictment, and was clearly proved to be such as was made for the use of the navy, and to have been found in the defendant's custody. The defendant did not attempt to show that she was within any exception of the act, as being a person employed to make canvass for the use of the navy; nor did she offer to produce any certificate from any officer of the crown, touching the occasion and reason of such canvass coming into her possession. Her defence was, that when there happened to be in his majesty's stores a considerable quantity of old sails, no longer fit for that use, it had been customary for the persons entrusted with the stores to make a public sale of them in lots, larger or smaller, as best suited the purpose of the buyers; and that the canvass produced in evidence, which happened to have been made up long since, some for table-linen and some for sheeting, had been in common use in the defendant's family a considerable time before her husband's death; and, upon his death, came to the defendant, and had been used in the same public manner by her to the time of the prosecution. This was proved by some of the family, and by the woman who had frequently washed the linen. This sort of evidence was strongly opposed by the counsel for the crown, who insisted that, as the act allows of but one excuse, the defendant, unless she could avail herself of that, could not resort to any other; that, if the canvass were really bought of the commissioners, or of persons acting under them, there ought to have been a certificate taken at the time of the purchase; and the second section admits of no other excuse. But the judge was of opinion, that though the clause of the statute, which directs the sale of these things, had not pointed out any other way for indemnifying the buyer than the certificate, and though the second section seemed to exclude any other excuse for those in whose custody they should be found, yet still the circumstances attending every case which might seem to fall within the act ought to be taken into consideration; otherwise, a law calculated for wise purposes might, by too rigid a construction of it, be made a handle for oppression. There was no room to say that this canvass came into the possession of the defendant by any act of her own: it was brought into family use in the lifetime of her husband, and it continued so to the time of his death; and by act of law it came to her. Things of that kind had been frequently exposed to public sale; and, though the act pointed out an expedient for the indemnity of the buyers, yet, probably, few buyers, especially where small quantities had been purchased at one sale, had used the caution suggested to them by the act. And if the defendant's husband really bought the linen at a public sale, but neglected to take a certificate, or did not preserve it, it would be contrary to natural justice, after such a length of time, to punish her for his neglect. He therefore thought the evidence given by the defendant proper to be left to the jury; and directed them, that if, upon the whole evidence, they were of opinion, that the defendant came to the possession of the linen without any fraud or misbehaviour on her part, they should acquit her; and she was accordingly acquitted. *Post. App. 439, edit. of 1792; 2 East's P. C. 765.*

An indictment, Winchester, March, 1801, *cor. Le Blanc, J.*, 2 *East's P. C.* 767, charged that *Thomas Cole*, on the 28th January, 1801, unlawfully, wil-

What a receiving or having in possession.

Difference between receiving and having in possession.

Summons.

lingly, and knowingly did *receive and have* in his custody, possession, and keeping, certain naval stores of the king, being all marked with the broad arrow, he not being a contractor, &c., against the statute, &c. The jury found the prisoner guilty; but said they did not find that he *received* the stores after the 28th July, 1800, but only that he had them in his possession after that day. Judgment was thereupon respited to take the opinion of the judges, a majority of whom inclined to think, that the statute was to be construed in the disjunctive, and the word *or* (receive *or* have) not to be taken as *and*; but, because of the disagreement of some, and that the case was not likely to occur again, the prisoner, on the finding of the jury, was recommended to mercy. It seemed, however, to be agreed that the case was not within the 9 & 10 Wil. III. c. 41, because the goods were not charged to have been found in the prisoner's possession.

A defendant against whom the possession of stores is proved, may discharge himself by other evidence than that of a navy-board certificate; as will appear from the case of *R. v. Banks*, 1 *Esp.* 144, wherein Lord *Kenyon*, C. J., said, that though in prosecutions under the statutes 9 & 10 Wil. III. c. 41, and 17 Geo. II. c. 40, s. 10, it was sufficient for the crown to prove the finding of the stores with the king's mark in the defendant's possession, to call upon him to account for that possession and the manner of his coming by them, so as to throw the *onus* upon the defendant, of proving that he had legally become possessed of them; yet, that the defendant had other means of showing that he had lawfully become possessed of them than by the production of the certificate from the Navy Board: as, for example, he might show that he had bought them from another person who was in the practice of buying stores at the navy sale; and who, therefore, might fairly be presumed to have had the regular certificate, but who, when he sold part to the defendant, could not, consistently with his own safety, part with the certificate he had obtained, of his having been the purchaser of the whole lot.

See cases as to the punishment, *ante*.

Stray. See *Estray*, Vol. II.

Subornation. See *Perjury*, *ante*.

Subpoena. See *Evidence*, Vol. II. p. 82.

Summons.

Summons, where proper.

IN all legal proceedings, the person complained of ought to have notice of the charge laid against him, and to have an opportunity of being heard in his own defence. Consequently, where a person is accused before the justices, they ought to summon the party to appear, or issue their warrant to bring him before them. The manner of conveying the parties is sometimes directed by the acts of Parliament creating the respective offences, which, therefore, ought to be pursued accordingly. In other cases, where it is left discretionary in the justices, it seemeth most agreeable to the mildness of our laws to put the party to no more inconvenience than needs must; and, therefore, where the case will bear it, a summons seems more apposite than a compulsory process.

But, in cases of sureties of the peace, petty larcenies, and other felonies, and generally where the king is a party, and also in cases between party and party, where the body of the offender is liable, a warrant is the regular process, and not a summons. Warrant, where proper.

In some cases, a party may be apprehended without either a summons or warrant. See *Arrest*, Vol. I.

See, further, as to the necessity of a summons, and when it is dispensed with, *Combition*, Vol. I. p. 827, 838.

The *form* of the summons, as also the mode of *erving* it, and the consequences of defects, will be found noticed under title *Combition*, Vol. I.

See forms of, *Combition*, Vol. I.

Sunday. See *Lord's Day*, Vol. III.

Supremacy, Oath of. See *Oaths*, Vol. III.

Surety of the Peace.

OUT of the Latin word *par*, the Normans formed their *pair*, and we (out of *Surety of the peace* that) our *peace*. *Lamb.* 5.

Surety of the Peace is the acknowledging of a recognizance or bond to the king, taken by a competent judge of record, for keeping the peace. *Dalt.* c. 116.

And this surety of the peace every justice of the peace may take and command by a twofold authority: 1. As a minister, commanded thereto by a higher authority; as, when a writ of *supplicavit* directed out of the Chancery or King's Bench is delivered to him. 2. As a judge, and by virtue of his office, derived from his commission. *Dalt.* c. 116. And, by the first clause of the commission, justices in session may take surety for the peace. Who may take it.

I. *For what Cause Surety of the Peace shall be granted,* p. 672.

II. *At whose Request granted,* p. 673.

III. *Against whom granted,* p. 673.

IV. *By whom, and in what Manner granted,* p. 673.

[21 Jac. I. c. 8.]

V. *How the Peace-Warrant may be superseded,* p. 676.

VI. *How the Peace-Warrant shall be executed,* p. 676.

VII. *Form of a Recognizance of the Peace,* p. 677.

VIII. *How such Recognizance shall be certified,* p. 678.

IX. *How such Recognizance may be forfeited,* p. 679

[3 Hen. VII. c. 1.]

X. *How the Recognizance, being forfeited, shall be proceeded on,* p. 679.

XI. *How such Recognizance may be discharged,* p. 679.

I. *For what Cause granted.*

For what cause
to be granted.

By the commission of the peace, justices of peace have power to cause to come before them, or any one of them, all those who, to any of the king's people, concerning their bodies, or the firing of their houses, have used threats, to find sufficient security for the peace, or their good behaviour towards the king and his people; and, if they shall refuse to find such security, to cause them in the king's prisons to be safely kept, until they shall find such security. See the form of the commission, Vol. III. p. 449.

Fear of corporal
hurt, or burning
his house.

Upon which Mr. *Hawkins* observes, that it seemeth clear that, wherever a person has just cause to fear that another will burn his house, or do him a corporal hurt,—as, by killing or beating him, or that he will procure others to do him such mischief, he may demand the surety of the peace against such person; and that every justice of the peace is bound to grant it, upon the party's giving him satisfaction upon oath that he is actually under such fear, and that he has just cause to be so, by reason of the other's having threatened to beat him, or laid in wait for that purpose; and that he doth not require it out of malice or for vexation. 1 *Haw. c. 60, s. 6*; see *Butt v. Conant*, 1 B. & B. 548, the case *a libel*.

Being threatened
with imprison-
ment.

Also, it seems the better opinion, that he who is threatened to be imprisoned by another has a right to demand the surety of the peace: for every unlawful imprisonment is an assault and wrong to the person of a man. And the objection that one wrongfully imprisoned may recover damages in an action, and therefore needs not the surety of the peace, is as strong in the case of battery as imprisonment; and yet there is no doubt but that one threatened to be beaten may demand the surety of the peace. 1 *Haw. c. 60, s. 7*.

Where demand-
ed through mal-
ice or vexation.

But, if the justice shall perceive that surety is demanded merely of *malice*, or for *vexation* only, without any just cause or fear, it seemeth he may safely deny it. *Dalt. c. 116*.

Implied malice is no ground for granting the sureties: *direct malice* must be shown from particular facts.

Also, if a man will require the peace, because he is at *variance* or in *suit* with his neighbour, it shall not be granted. *Dalt. c. 116*.

Fear of harm to
his servants or
cattle.

Also, Mr. *Lambard* says, he takes it to be somewhat clear that a justice may not by the commission award a precept of the peace in behalf of a man that will require it, because he feared that he will do harm to his *servants* or *cattle*. *Lamb. 83*.

And Mr. *Dalton* says, where a man is in fear that another will hurt his servants, or his cattle, or other goods, this surety of the peace shall not be granted by the justice. But, in this case, *Fitzherbert* saith, the party may have a special writ out of the Chancery directed to the sheriff, that he shall cause such person to find surety that he shall do no hurt or damage to the other man in his body, or to his servants or goods; and, if he will not find surety, that then he shall arrest and detain him in prison until he shall find surety. *Dalt. c. 116*.

The reason why a man may not have sureties of the peace against another, for that he feareth he will do harm to his servants, seemeth to be, because it should be the servant's fear in such case, and not the master's; and the servant's own oath before the justice is necessary. And as to his goods, it seemeth clear that no sureties of the peace ought to be granted in that case: for the recognizance of the peace, when taken, is only that the party shall keep the peace towards the king and all his liege people.

But Mr. *Dalton* says, that if a man shall threaten to hurt his wife or child, he thinks he may crave the peace at the justice's hands, by the words of the commission, and that the justice ought to grant it. *Dalt. c. 116*.

Threatening a
man's wife or
child.

Must be a fear of
present or future
danger.

Note, also, the surety of the peace shall not be granted but where there is a fear of some present or future danger, and not merely for a battery or trespass that is past, or for any breach of the peace that is past; for this surety of the peace is only for the security of such as are in fear; but the party wronged may punish the offender by indictment, and the justice, if he see cause, may bind

over the affrayer. *Dalt. c. 11.* That is, he may bind him over to answer unto the indictment.

II. At whose Request granted.

As to this, *Mr. Hawkins* says, it seems to be agreed at this day, that all persons whatsoever, under the king's protection, being of *sane* memory, whether they be natural and good subjects or aliens, or attainted of treason, &c., have a right to demand surety of the peace. And it is certain a wife may demand it against her husband threatening to beat her outrageously, and that a husband also may have it against his wife. 1 *Haw. c. 60, s. 2; Cromp. 118.*

May be demanded by any person.

Upon which *Mr. Crompton* observeth, that if the wife, in such case, cannot find sureties, she shall be committed; "and so (says he), a man may be rid of a shrew." *Crompt. 118. (a)*

And *Mr. Dalton* says, an infant under the age of fourteen years may demand this surety, and it shall be granted to him. *Dalt. c. 117.*

But, as to a person of *non-sane* memory, *Mr. Dalton* says, this surety shall neither be granted against him nor to him, upon his own request; but yet, if there shall be cause, the justice ought to provide for his safety. *Dalt. c. 117.*

A peeress may demand surety of the peace against her husband. See the cases of *Lord Vane, 2 Stra. 1202; 13 East, 171; Marquis Carmarthen, Fort. 359; Earl Ferrers, 1 Burr. 631, 703; Earl Stamford, Cas. T. Harbo. 74; Lord Strathmore, 1 T. R. 696; Lord Howard, 11 Mod. 109.*

III. Against whom granted.

There seems to be no doubt but that it ought, upon a just cause of complaint, to be granted by any justice of the peace against any person whomsoever, under the degree of nobility, being of *sane* memory, whether he be a magistrate or private person, and whether he be of full age or under age. But infants and *femes covert*s ought to find security by their friends, and not to be bound themselves. And the *safest* way of proceeding against a peer is by complaint to the Court of Chancery or King's Bench. 1 *Haw. c. 60, s. 3; 4 Bla. Com. 253.* See, *ante*, *Peers.*

Against whom.

Infants and *femes covert*s.
Peers.

IV. By whom and how granted.

The Courts of Chancery or King's Bench, or any justice or other conservator of the peace, may, it should seem, compel surety of the peace.

Who may compel it.

If a person require immediate surety of the peace, and there be no sessions sitting, he should go before a justice or justices out of session, and make complaint on oath of the facts which require the surety. The complaint is usually in writing. See form, (No. 1,) *post*, p. 688.

Before a single justice.

If the offending party be present, he may be required at once to enter into the requisite recognizance.

If he be absent, the justice may make out a warrant to bring the party before himself or some other justice, or he may make it to bring the party before himself only: for he that maketh the warrant, for the most part, hath the best know-

(a) If the marriage be disputed, the court will order the recognizance to be worded so as not to admit the fact. And it was directed to be as follows: "To keep the peace towards our sovereign lord the king, and all his liege people, and particularly towards Hannah Penn, who

hath exhibited articles of the peace against him, the said James Bambridge, by the name of Hannah Bambridge, wife of him the said James, and that he shall not depart the court without leave," &c. *R. v. Bambridge, 2 Str. 1231.*

BY WHOM
AND HOW
GRANTED.

ledge of the matter, and therefore he is the fittest to do justice in the case. 5 *Rep.* 59. See form of warrant, *post*, (No. 2), p. 688.

It seemeth certain, that if the person to be bound be in the presence of the justice, he may be immediately committed, unless he offer sureties; and from hence it follows, *à fortiori*, that he may be commanded by word of mouth to find sureties, and committed for his disobedience. But it is said, that, if he be absent, he cannot be committed without a warrant from some justice, in order to find sureties, and that such warrant ought to be under seal, and to show the cause for which it is granted, and at whose suit, and that it may be directed to any indifferent person. 1 *Haw. c.* 60, s. 9. See form of commitment, *post*, (Nos. 4, 5).

It is said, a justice cannot enjoin another to keep the peace under a penalty. *Com. Dig.* Nor commit him for not finding security, until the party has been required and refused so to do. *Per Pratt, C. J., R. v. Wilks*, 1 *Haw. c.* 60, s. 9, 7th edit. note.

It is more usual, and is considered as the better way, except under very special circumstances, for the justice to bind the party against whom the peace is required by recognizance to appear at the next session of the peace, and, in the meantime, to keep the peace to the king and all his liege people, especially to the party claiming the security; and, though the recognizance should be removed by *certiorari*, it is no discharge of the obligation to appear. 2 *Haw. c.* 27. The recognizance, however, may be to keep the peace for any indefinite period. *Willes v. Bridger*, 2 *B. & A.* 278. See, further, as to the form of the recognizance, *post*, p. 677.

Before the ses-
sions.

The party requiring the surety may at once apply to the court of sessions; and this is the most usual and best course, when the court is sitting.

The application should be made to the court upon articles on oath (or on the affirmation of a Quaker), stating fully all the facts which justify the applicant in his fearful apprehensions. See form, *post*, p. 688, (No. 1).

The articles should be exhibited on parchment.

If the applicant has already been before a justice out of sessions, and the defendant has been bound by recognizance to appear before the justices in session, the court may make proclamation, that "if any man can show cause why the peace granted against such a one shall be continued, he shall speak;" and if no person come to demand the peace against him, or to show cause why it should be continued, then the court may discharge him. *Dalt.* 120.

It is said, that if a man be bound to keep the peace, and especially if to keep it towards a certain person, though such person come not to desire the peace may be continued, yet the court, by their direction, may bind him over till the next session, and that may be to keep the peace against that person only, if they shall think fit: for it may be that the person who first craved the peace is sick, or otherwise prevented, so as he cannot come to that session to demand the continuance of the peace further. *Talf. Dick. Sess.* 404. The power of the sessions, however, to do this seems questionable. In *R. v. Bowes*, where Lady *Strathmore* had exhibited articles of the peace against the defendant (her husband), the Court of King's Bench ordered him to give security for fourteen years (it being a case of great outrage, and articles of the peace having been once before exhibited against him on a different complaint), himself in 10,000*l.* and two sureties in 5000*l.* each. The defendant afterwards applied to the court to reduce the time to one year instead of fourteen, and also to diminish the sum; and in the course of the argument in support of the rule, the defendant's counsel suggested that the court might take bail for one year at first, and afterwards renew that from year to year, if they should see occasion, without any fresh facts being exhibited against him. But though the court, on the particular circumstances of the case, ordered the time to be reduced to two years, because an information then depending for the outrage complained of would be disposed of within that time, when the court might deal with the defendant as they thought proper, in the event of his being convicted, Mr. J. *Ashurst*, in answer to the suggestion at the bar, that new bail might be required of the defendant at the end of the first year on the original complaint, said, "I very much doubt whether we have such a power.

It has been admitted that there never was any instance of the kind ; and I confess I should be very loath to establish such a precedent." 1 T. R. 700.

If the applicant appear, he may then move the court to receive articles of the peace against the offender (with which articles ready drawn on parchment, (see form, *post*, No. 10,) he should come prepared, in order that they may be delivered to the clerk of the peace), and further, to bind him by recognizance to the next session ; and so on from session to session, so long as he shall be able to make it appear that his reasonable apprehensions continue. Or the justices may bind him for a certain definite period, without reference to any succeeding session, at their discretion, as the individual justice might have done in the first instance. *Ante*, 674 ; *Talf. Dick. Sess.* 405.

If the party refuse to enter into the recognizance, he may be committed. *Ante*, p. 674.

As to granting process of the peace or good behaviour out of the Chancery or the King's Bench, it is enacted, by the 21 Jac. 1. c. 8, that it shall not be granted but upon motion in open court, and declaration in writing, and upon oath to be exhibited by the party desiring such process, of the causes for which such process shall be granted ; the motion and declaration to be mentioned on the back of the writ. And if it shall afterwards appear that the causes are untrue, the court may order *costs* to the party grieved, and commit the offender till paid.

Process out of
the Chancery or
K. B.

The articles must be verified by the *oath* of the exhibitant. *R. v. Green*, 1 Str. 527 ; *Hilton v. Byron*, 12 Mod. 243. Since the 9 Geo. IV. c. 32, the affirmation of a Quaker or Moravian would suffice. See *Evidence*, Vol. II. p. 86.

Verification on
oath.

The articles may be supported by the corroboratory affidavits of third persons, and it is desirable so to support them. The affidavits ought not, it seems, to be entitled with names, &c. there being no previous cause in court. *R. v. Jones*, 1 Str. 704 ; 3 T. R. 601 ; 6 T. R. 642. But affidavits in answer must. *Id.*

Affidavits in cor-
roboration.

A person demanding sureties of the peace (whether it be in the first instance before a single justice for immediate security, or by exhibiting articles before the justices in session) swears only to his own apprehensions, of which no other person can form an adequate judgment ; from which it has been deduced by the judges, in many cases, as a general rule, that articles of the peace cannot be resisted on any ground, except by showing *direct* evidence of express malice ; such as declarations to that effect ; but not *inferred* malice, collected from general reasoning, or collateral circumstances ; and, moreover, that wherever *particular facts* of violence are stated by the complainant, it is not permitted for the defendant to controvert them ; for they must be taken to be true, till negated through the medium of an appropriate prosecution. *Dick. Sess.* 504. And see the cases of *Lady Vane*, *Countesses Strathmore and Doherty*, *infra*.

Affidavits in con-
tradiction.

In *R. v. Doherty*, 13 East, 171, articles of the peace having been exhibited against the defendant by his wife, process issued thereon to enforce appearance ; and when he appeared in court with his sureties, his counsel tendered affidavits to the court in contradiction of the facts sworn to in the articles, for the purpose of discharging them. But the court were satisfied they could not receive affidavits on the part of the defendant to contradict the truth of the articles exhibited against him, and prevent his giving surety. And see Lord *Vane's case*, 13 East, 171, n.

But in *R. v. Bringle*, 13 East, 174, *note*, though it was refused the defendant to controvert the facts, yet an explanation was allowed of such parts of the articles as were ambiguous.

And where an application was made to the court to enforce the subsequent process, and the articles manifestly appeared, from the corroborated affidavit of the defendant, to contain *malicious, voluntary, and gross perjury*, the court resisted the application and committed the offender. *R. v. Parnell*, 2 Burr. 806 ; *R. v. Hon. P. Mackenzie*, 3 Burr. 1922.

The court will not in general receive articles of the peace if the parties live at a distance in the country, unless they have previously made application to a

Where parties
reside at a dis-
tance.

HOW PEACE-
WARRANT
EXECUTED.

justice in the neighbourhood, and he has improperly refused to receive them. *R. v. Waite*, 2 Burr. 780.

And where articles of the peace were exhibited, and it appeared that the facts charged were done at Portsmouth, the court ordered an indorsement to be made upon the attachment of the peace, authorizing and directing any justice in that county to take the security there, specifying the particular sums wherein the principals and also their sureties should be bound. *Hutt's case*, 1 Bla. Rep. 233; 2 Burr. 1039, S. C.

On an affidavit that the defendant was seventy years of age, and unable to travel, a *mandamus* was granted to three justices in Brecon to take security on articles of the peace exhibited in the King's Bench. *R. v. Lewis*, 2 Str. 835.

V. How the Peace-Warrant may be superseded.

Finding sureties
before arrest.

It is said, that if one who fears that the surety of the peace will be demanded against him, find sureties before any justice of the same county, either before or after a warrant is issued against him, he may have a *supersedeas* from such justice, which shall discharge him from arrest from any other justice at the suit of the same party, for whose security he has given such surety. 1 Haw. c. 60, s. 14.

In which *supersedeas* it is not necessary to name either the sureties or the sums in which they are bound: but yet it is the better form to express them both. *Dalt. c. 118*.

Supersedeas in
the Chancery or
K. B.

Also, it is said that an appearance upon a recognizance for the peace may be superseded, by finding sureties in the Chancery or King's Bench, and purchasing a writ, testifying the same; but this practice having been often abused, it is enacted, by the 21 Jac. I. c. 8, that no writs of *supersedeas* shall be granted out of the Chancery or King's Bench but upon motion in open court, and on such sufficient sureties as shall appear on oath to the court to be assessed in the subsidy-book at 5*l.* lands, or 10*l.* in goods; and unless it shall also first appear to the court, that the process of the peace or good behaviour is prosecuted against him, desiring such *supersedeas bona fide*, by some party grieved, in that court out of which the *supersedeas* is desired to be awarded. 1 Haw. c. 60, s. 14.

VI. How the Peace-Warrant shall be executed.

By whom to be
executed.

See in general, *Warrant, post*.

It can be executed only by the persons to whom it is directed, or some of them, unless it be directed to the sheriff, who may, either by parole or by precept in writing, authorize an officer sworn and known to serve it, but cannot empower any other person without a precept in writing. 1 Haw. c. 60, s. 11.

Breaking open
doors.

Where a person, authorized to arrest another who is sheltered in a house, is denied quietly to enter it, in order to take him, it seems generally to be agreed that he may justify breaking open the doors, (among other instances there stated) upon a *capias* from the King's Bench or Chancery, to compel a man to find sureties for the peace or good behaviour, or even upon a warrant from a justice of the peace for such purpose. 2 Haw. c. 14, s. 2.

But no one can justify the breaking open another's doors to make an arrest, unless he first signify to those in the house the cause of his coming, and request them to give him admittance. 2 Haw. c. 14, s. 1. See title *House*, Vol. III.; *Warrant, post*.

What justice to
be carried be-
ore.

If the warrant specially direct that the party shall be brought before the justice who made it, the officer ought not to carry him before any other; but if the warrant be general, to bring him before any justice of such place, the officer has the election to bring him before what justice he pleaseth, and may carry him to prison for refusing to find surety before such justice. 1 Haw. c. 60, s. 13.

And if the party be carried before another justice, and not before him who issued the warrant, such other justice must take the surety, and bind him by recognizance, in all points, as the form of the precept doth require; and thereupon such other justice, having so taken surety of the peace, may and ought, upon request, to make his *supersedeas* to all officers, and to all other justices of the same county; and thereby the said party shall be discharged from finding other surety, and from any other arrest from the same cause; but by such *supersedeas*, the other justice cannot discharge the warrant of the first justice, until the party be bound indeed; nor give any other day to the party to appear. *Dalt. c. 118.*

If the warrant be in the common form, directing the officer to cause the party complained of to come before a justice to find sufficient surety, and if he shall refuse so to do, to convey him immediately to prison, without expecting any further warrant, until he shall willingly do the same, the officer who serves it, before he makes any arrest, ought first to require the party to go with him, and find sureties according to the purport of the warrant; but upon refusal to do either, that is, either to go before the justice or to find sureties, he may carry him to the gaol by force of the same warrant, without more. 1 *Haw. c. 60, s. 12; Dalt. c. 118.*

And yet the constable or officer may bring him, in that case, before the justice; and if he refuse there to give sureties, he may commit him without further warrant or *mittimus*. 2 *Hale, 112.*

Nevertheless, notwithstanding these great authorities, it may not be convenient for the justice to leave so much to the constable's judgment, as to determine what shall or shall not be deemed a refusal to find such sureties; for that the constable is constituted a judge in such case by no law. And much less doth it seem advisable to require in the warrant, as is usual, that the constable shall carry the party to gaol, if he shall refuse to find sufficient sureties. It doth not appear how the constable can any way be deemed a competent judge of that; for it is certain that he cannot administer an oath to such sureties, or others, whereby to inform himself of such sufficiency.

If the officer do arrest the party, and do not carry him before the justice to find sureties; or, upon the refusal of the party, if the officer shall arrest him and do not carry him to the gaol; in both these cases the officer is punishable by the justices for this neglect, by indictment and fine at their sessions. And also the party arrested may have his action of false imprisonment for the arrest; for where the officer doth not pursue the effect of his warrant, his warrant will not excuse him of that which he hath done. *Dalt. c. 118.*

When the party cometh before the justice, he must offer sureties, or else the justice may commit him; for the justice needeth not to demand surety of him. *Dalt. c. 118, 169.*

If the justice was deceived in the sufficiency of the sureties, he or any other justice may afterwards compel the party to find and put in other sufficient sureties, and may take a new recognizance for the same. *Dalt. c. 116, 119.*

If the sureties die, the party principal shall not be compelled to find new sureties, *Dalt. c. 119*, because their executors and administrators are liable.

But if a man that was bound to keep the peace hath broken his bond, the justices ought, of discretion, to bind him anew. *Lamb. 78.*

But not until he be thereof convicted by due course of law; for, before conviction, he standeth indifferent whether he hath forfeited his recognizance or not. *Crompt. 125.*

HOW PEACE-
WARRANT
EXECUTED.

Supersedeas.

Whether he may
be carried to
prison without
any further war-
rant.

Insufficient sure-
ties.

Sureties dying.

Breaking of the
bond.

Form of recog-
nizance.

VII. Form of a Recognizance for the Peace.

The form of the recognizance, when taken before a justice, is chiefly in the discretion of such justice. See form, *post*, (No. 6.)

A recognizance to keep the peace as to any person, for a year, or for life, or without expressing any certain time (in which case it shall be intended for life), or without fixing any time or place for the party's appearance, or without binding him to keep the peace against all the king's people in general, is good.

HOW RECOGNIZANCE FORFEITED.

1 *Haw. c. 60, s. 15*; and see this fully recognized in *Willes v. Bridger*, 2 B. & A. 278, S. C.

Recognition must be separate.

However, it is the most usual way for justices out of sessions to bind the party to appear at the next sessions of the peace, and in the meantime to keep the peace as to the king and all his liege people, especially as to the party.

The fear of one cannot be the fear of another; and, therefore, every recognizance must be separate. *Pult. 18.* But the Court of King's Bench have allowed three women to file joint articles of the peace against three men. *R. v. Nettle, &c. 1 Haw. P. C. c. 60, note, 7th edit.*

Supplicavit.

The form of a recognizance taken on a writ of *supplicavit* must depend on the terms of that writ.

VIII. How Recognizance shall be certified.

How to be certified.

If it be taken by force of a writ of *supplicavit*, it needs not be certified till the justice receive a writ of *certiorari* to that purpose. But if it be taken upon a complaint below, it must be certified, sent, or brought to the next sessions, by force of the 3 Hen. VII. c. 1, that the party so bound may be called. 1 *Haw. c. 60, s. 18.*

IX. How Recognizance may be forfeited.

What is deemed no forfeiture.

There are divers things which may be done against the peace, and divers offences for which an indictment against the peace will lie, and yet the committing or doing such offence or act shall be no forfeiture of the recognizance for the peace; for that the act that shall cause a forfeiture of such recognizance must be done or intended unto the person as is aforesaid, or in terror of the people. Therefore, to enter into lands, where he ought to bring his action; or to disseise another of his lands; or to enter into lands or tenements with force, being without offer of violence to any man's person, and without public terror; or to do a trespass in another man's corn or grass; or to take away another man's goods wrongfully, so it be not from his person; or to steal another man's horse, or other goods feloniously, being not from his person: all these, and the like, are breaches of the peace, and yet these will make no breach of this recognizance, nor breach of the peace within the meaning of the commission of the peace. *Dalt. c. 121.*

What shall be a forfeiture.

But the recognizance is forfeited, if the party make default of appearance, and the same default shall be recorded. 3 Hen. VII. c. 1.

However, if the party have any excuse for his not appearing, it seems that the sessions are not bound peremptorily to record his default, but may equitably consider of the reasonableness of such excuse. 1 *Haw. c. 60, s. 18.*

Case of sickness.

And Mr. Dalton says, in case of the sickness of the party, so that he cannot appear, he has known that the justices, upon due proof thereof, have forborne to certify or record such forfeiture or default; and that they have taken sureties for the peace of some friends of his present in court, until the next sessions; for that the principal intent of the recognizance was but the preservation of the peace. But he queries how this is warrantable by their oath. *Dalt. c. 120.*

Actual violence.

Also, there is no doubt but that it may be forfeited by any actual violence to the person of another, whether it be done by the party himself, or by others through his procurement: as, manslaughter, rape, robbery, unlawful imprisonment, and the like. 1 *Haw. c. 60, s. 20.*

Threatening words.

Also, it hath been holden, that it may be forfeited by any treason against the king's person, and also by any unlawful assembly in *terrorem populi*, and even by words directly tending to a breach of the peace, as by challenging one to fight, or in his presence threatening to beat him. 1 *Haw. c. 60, s. 21.*

Otherwise it is if the party be absent; and yet, if the party so bound shall threaten to kill or beat a person who is absent, and after shall lie in wait for him to kill or beat him, this is a forfeiture of the recognizance. *Dalt. c. 121.*

However, it seems that it shall not be forfeited by bare words of heat and

choler, as calling a man a knave, teller of lies, rascal, or drunkard: for though such words may provoke a cholerick man to break the peace, yet they do not directly challenge him to it, nor does it appear that the speaker designed to carry his resentment any farther; and it hath been said that even a recognizance for the good behaviour shall not be forfeited for such words; from whence it follows, *à fortiori*, that a recognizance for the peace shall not. 1 *Haw. c. 60, s. 22.*

HOW RECOGNIZANCE DISCHARGED.

Also, there are some actual assaults on the person of another, which do not amount to a forfeiture of such recognizance: as if an officer, having a warrant against one who will not suffer himself to be arrested, beat or wound him in the attempt to take him; or if a parent in a reasonable manner chastise his child; or a master his servant, being actually in his service at the time; or a schoolmaster his scholar; or a gaoler his prisoner; or even a husband his wife, as some say; or if one confine a friend who is mad, and bind and beat him, in such a manner as is proper in such circumstances; or if a man force a sword from one who offers to kill another therewith; or if a man gently lay his hands upon another, and thereby stay him from inciting a dog against a third person; or if a man beat another (without wounding him, or throwing at him a dangerous weapon,) who wrongfully endeavours with violence to dispossess him of his lands or goods, or the goods of another delivered to him to be kept, and will not desist upon his laying his hands gently on him, and disturbing him; or if a man beat, or (as some say) wound or maim one who makes an assault upon his person or that of his wife, parent, child, or master, especially if it appear that he did all he could to avoid fighting before he gave the wound; or if a man fight with or beat one who attempts to kill any stranger; or if a man even threaten to kill one who puts him in fear of death, in such a place where he cannot safely fly from him; or if one imprison those whom he sees fighting, till the heat is over. 1 *Haw. c. 60, s. 23, 24.*

An actual assault in some cases does not amount to a forfeiture.

X. *How the Recognizance, being forfeited, shall be proceeded on.*

It is said, that the sessions cannot in any case proceed against the party for a forfeiture of his recognizance, either in respect of his not appearing, or breaking the peace; but that the recognizance itself, with the record of default of appearance, ought to be removed into some of the courts at Westminster, who shall proceed by *scire facias* upon such recognizance; and so it ought to be if it be presented by the jury or grand inquest, that the party hath forfeited his recognizance by breach of the peace. 1 *Haw. c. 60, s. 18; Dalt. c. 70.*

How forfeited recognizance proceeded on.

XI. *How Recognizance may be discharged.*

He who is bound to the peace, and to appear at a certain day, must appear at that day and record his appearance, although he who craved the peace cometh not to desire that it may be continued; otherwise the recognizance cannot be discharged. *Dalt. c. 120.*

Discharged on appearance.

If the recognizance be made to keep the peace generally, without any time or day limited, it shall be construed to be during the party's life; and this the justice may do upon reasonable cause: but if such surety be so taken during the offender's life, neither the king, nor the justice, nor the party, can release or discharge it: and, therefore, the justice must be well advised, how he granteth such surety. *Dalt. c. 119.*

But it seems to be agreed, that it may be discharged by the death or demise of the king in whose reign it was taken, or of the principal party who was bound thereby, if it were not forfeited before. 1 *Haw. c. 60, s. 17.*

By the death of the king.

Also it hath been holden, that it may be discharged by the release of the party at whose complaint it was taken, being certified together with it; but this may justly be questioned, because the recognizance is not to the subject but to the king, and consequently cannot be discharged by the subject, who is not a

Or the release of the party.

HOW RECOGNIZANCE DISCHARGED.

How pardoned by the king.

May be discharged or continued by the sessions.

Party demanding sureties dying.

Forms as to.

party to it: however, such a release will be a good inducement to the court to which such a recognizance shall be certified, to discharge it. *Id.*

It is certain that such a recognizance cannot be pardoned or released by the king before it be broken, because the subject hath a kind of interest in it; but being forfeited, then the king, and no other, may release and pardon the forfeiture. *Id.*

And it is said that the sureties are not discharged by their death, but that their executors continue to be bound as their testators were. 1 *Haw. c. 60, s. 17*; *Dalt. c. 120*.

And if a man be bound to keep the peace towards the king and all his people, but not towards any person certain, and to appear at such a sessions, the court at that sessions may make proclamation, that if any man can show cause why the peace granted against such a one shall be continued, he shall speak; and if no person cometh to demand the peace against him, or to show cause why it should be continued, then the court may discharge him. But if a man be bound as aforesaid, and especially to keep the peace towards a certain person, there, though such person cometh not to desire the peace may be continued, yet the court by their discretion may bind him over till the next sessions, and that may be to keep the peace against that person only, if they shall think good; for it may be that the person who first craved the peace is sick, or otherwise letted, so as he cannot come to that sessions to demand the continuance of the peace further. *Dalt. c. 120. Sed vide ante, p. 674.*

Likewise, if the party be imprisoned for default of sureties, and after he that demandeth the peace against him happen to die, it seemeth the justice may make his *liberate* or warrant for the delivery of such prisoner; for, after such death, there seemeth no cause to continue the other in prison. Also, any justice may, upon the offer of such prisoner, take surety of him for the peace, and may thereupon deliver him. *Dalt. c. 118.*

See forms, *post*, 688.

Surety for the Good Behaviour.

Good behaviour includeth the peace.

A MAN may be compelled to find sureties both for the good behaviour and for the peace; and yet the good behaviour includeth the peace; and he that is bound to the good behaviour is therein also bound to the peace. *Dalt. c. 122.*

This surety for the good behaviour being of near affinity to surety for the peace, both as to the manner in which it is to be taken, superseded, and discharged, it seemeth not to require a particular consideration, save only as to these two points:

I. *For what Misbehaviour it is to be required, p. 680.*

II. *For what it shall be forfeited, p. 688.*

I. For what Misbehaviour it is to be required.

For what misbehaviour it is to be required.

It doth not appear that the conservators of the peace at common law had any power as touching the good behaviour, further than as it had a relation to the peace; and not as it is contra-distinguished from it. And it seemeth that the power which the justices of the peace do exercise at this day, in relation thereto, doth solely depend upon the commission of the peace, and the statute of the 34 Edw. III. c. 1. (Except in some special instances, wherein the power of binding to the good behaviour is given to them by particular statutes, which pertain not to this general title.)

The words in the commission are these: "We have assigned you jointly and severally, and every one of you, our justices, to keep our peace, and to cause to come before you, or any one of you, all those who to any one or more of our people concerning their bodies, or the firing their houses, have used threats; to find sufficient security for the peace or their good behaviour towards us and our people; and if they shall refuse to find such security, then them in our prisons, until they shall find such security, to cause to be safely kept."

FOR WHAT
REQUIRED.

Power given to
Justices by the
commission.

The 34 Edw. III. c. 1, as to this matter runs thus: "In every county shall be assigned for the keeping of the peace one lord, and with him three or four of the most worthy in the county, with some learned in the law; and they shall have power to restrain the offenders, rioters, and all other barrators, and to pursue, arrest, take, and chastise them according to their trespass or offence; and to cause them to be imprisoned and duly punished according to the law and customs of the realm, and according to that which to them shall seem best to do by their discretions and good advisement; and also to inform them, and to inquire of all those that have been pillors and robbers in the parts beyond the sea, and be now come again, and go wandering, and will not labour as they were wont in times past; and to take and arrest all those that they may find, by indictment, or by suspicion, and to put them in prison; and to take of all them that be not of good fame, where they shall be found, sufficient surety and mainprize of their good behaviour towards the king and his people, and the other duly to punish, to the intent that the people be not by such rioters or rebels troubled nor endangered, nor the peace blemished, nor merchants nor others passing by the highways of the realm disturbed, nor put in the peril which may happen of such offenders."

34 Edw. 3, c. 1.
Power given by
statute.

This statute seems to have had in view chiefly the disorders to which the country was then liable, from great numbers of disbanded soldiers, who having served abroad in the wars of that victorious king, were grown strangers to industry, and were rather inclined to live upon rapine and spoil. *Burl. 524.*

But whatever the natural and obvious sense of it may be when compared with the history and circumstances of those times, it is certain that it hath been carried much farther by construction, and the purport of it hath been extended by degrees, until at length there is scarcely any other statute which hath received such a largeness of interpretation.

And that I may proceed with clearness in a matter so essential to the office of a justice of the peace, I will set down the several expositions which have been given of this statute from time to time by learned men, and then raise such observations thereupon as the subject will naturally suggest.

Observations of
learned men on
the subject.

The first unfolding of the sense of this statute which has occurred, was in the case of *Sir Richard Croftes* and *Sir Richard Corbet*, in the second year of the reign of King Henry VII., wherein it was resolved by all the judges, for that purpose assembled, that he who is bound to the good behaviour ought not to do anything which shall be cause of breach of the peace, or to put the people in fear, dread, or trouble; and so shall be intended of all things which concern the peace: but not in misdoing of other things which touch not the peace. Yet a diversity was observed, between a breach of the peace and a breach of the good behaviour, for the peace is not broken without an affray or battery, but the good behaviour may be forfeited by the number of people a man has, and by their harness, or weapons, and the like, although they break not the peace. 2 Hen. VII. c. 2.

The second instance, and upon which much stress hath been laid, was in the 13th year of the same king. In trespass of assault, battery, and imprisonment at D., the defendant saith that one *Alice B.* had a house in the same town, and kept there suspicious people, to wit, of common bawdry, and that the plaintiff oftentimes resorted to the same house suspiciously with women of bad fame and name, whereby the constable of the same town required the defendant to aid him to arrest the plaintiff, to find surety of his good behaviour; whereby the defendant came with the said constable at the hour of twelve in the night, and him found suspiciously in the same place; whereupon he took him and put him in ward; and it was holden by all the justices to be a good

FOR WHAT
REQUIRED.

justification; for they said, that it is lawful for every constable to take suspected persons, which wake in the night and sleep in the day, or that keep suspicious company. 13 Hen. VII. c. 10.

In the next place, Sir *Anthony Fitzherbert*, who lived in the reign of King Henry VIII., saith, that it seemeth that one justice may, by the commission, issue a warrant against a person to find surety of the good behaviour, by his discretion, as well as two justices may: and the words of the statute of the 34 Edw. III. are to the same effect. Otherwise, he says, damage may happen to some of the king's subjects, if the party be not attached, before that two justices have made the precept; yet, he says, the common usage is, to make such precept of the good behaviour in the name of two justices, and it is good to observe this direction. *Fitz.* 7; see *Crompton*. 122, 126.

In the next place, it is proper to take notice of a case adjudged in the Court of King's Bench, in the 30th of Queen Elizabeth, reported by *Ld. Coke*, 4 *Inst.* 181, which was thus:—At the sessions at Bridgewater, in the county of Somerset, one *William King* with sureties was bound by recognizance to appear at the next general sessions of the peace in the same county, and in the meantime to be of the good behaviour towards the queen and all her people. And after, at the next sessions, *William King* appeared, and was indicted for slanderous words spoken since his binding, to wit, for saying at one time to *Edward Kyrton*, Esq., “Thou art a pelter, thou art a liar, and hast told my lord lies.” And he was further indicted, that since the said recognizance, “the close of one *John Wick* with force and arms he broke and entered, and the cattle of the said *John* depasturing in the said close unlawfully vexed and chased.” And afterwards, at another time, he said to the said *Kyrton*, “Thou art a drunken knave.” Which indictment was removed into the King's Bench. And hereupon it was debated divers times, both at the bar and the bench, whether, admitting all that is contained in the indictment to be true, anything therein was, in judgment of law, a breach of the said recognizance. And it was resolved, that neither any of the words, nor the trespass, were any breach of the good behaviour, for that none of them did tend immediately to the breach of the peace; for though the said words, “Thou art a liar, thou art a drunken knave,” are provocations, yet they tend not immediately to the breach of the peace; as if *William King* had challenged *Kyrton* to fight with him, or had threatened to beat or wound him, or the like, these tend immediately to the breach of the peace, and are therefore breaches of the recognizance of the good behaviour. And this diversity (*Ld. Coke* says) was justly collected upon the coherence and context of the statute of the 34 Edw. III., whereby justices are assigned for keeping the peace, and to restrain the offenders, rioters, and all other barrators, and to chastise them according to their trespass and offence; and to inquire of pillors and robbers in the parts beyond the seas, and be now come again, and go wandering, and will not labour. And thus much for the punishment of offences against the peace after they be done. Then followeth an express authority given to justices, for prevention of such offences before they be done, namely, “and take of all them that be not of good fame” (that is, that be defamed and justly suspected that they intend to break the peace), “where they shall be found, sufficient surety and mainprize of their good behaviour towards the king and his people” (which must concern the king's peace, as is also provided by the words subsequent), “to the intent that the people be not by such rioters troubled or endamaged, nor the peace blemished, nor merchants nor others passing by the highways disturbed, nor put in peril that may happen of such offenders.” And as for the trespass: although every wrongful trespass is by force and arms, and against the peace, yet these are not taken to be such as shall make a breach of the good behaviour.

After this, Mr. *Lambard*, who wrote towards the beginning of the reign of King James the First, saith thus:—Surety of the good bearing is of great affinity with that of the peace, as being provided for preservation of the peace, as that other is; for in the commission of the peace they are both conveyed under one tract of speech, against such as threaten to hurt men's bodies, or fire their houses; which things (he says) are now commonly prevented by surety of the peace only. *Lamb.* 115.

And in the 2 Hen. VII. c. 2 (above recited), the surety of the good abearing is set forth in this point chiefly, that a man do nothing that may be cause of a breach of the peace; and that it doth not consist in the observation of things that concern not the peace; and that it should differ from surety of the peace in this, that where the peace is not broken without an affray, or battery, or such like, the surety may be broken by the number of a man's company, or by his or their weapons or harness.

And herewithal (he says) do also agree certain precedents in the King's Bench.

But all this notwithstanding, he thinks that a man may reasonably affirm, that the surety of good abearing should not be restrained to so narrow bounds.

In proof of which, he proceeds to comment on the above-mentioned statute of the 34 Edw. III., enabling the keepers of the peace "to take of them all that be not of good fame, where they shall be found, sufficient surety and mainprize of their good abearing towards the king and his people;" so that, if a man be defamed, he may, by virtue hereof, be bound to his good behaviour at the discretion of the justices. Now, the doubt resteth in this—to understand concerning what matters this defamation must be: and this (he thinks) may be partly gathered out of the said statute; for after it hath first given power to the wardens of the peace to arrest and chastise offenders (that is to say, against the peace, rioters, and barrators), then it willet them to "inquire of such as, having been robbers beyond the sea, were come over hither, and would not labour as they were wont;" and, lastly, it authorizeth them "to take surety of the good behaviour of such as be defamed," namely, for any of those former offences; for so it standeth well together that they should both punish such as have already so offended, and shall also provide that others shall not likewise offend.

But he says, the further this bond of the good abearing doth extend, the more regard there ought to be taken in the awarding of it; and therefore (says he) although the justices have power to grant it, either by their own discretion or upon the complaint of others, even as they may that of the peace, yet I wish rather that they do not command it but only upon sufficient cause seen to themselves, or upon the complaint of other very honest and credible persons.

And then being about to set forth the form of a warrant, and of a recognizance for the good behaviour, he says, "And here, forasmuch as one justice alone, and out of sessions, may both by the first clause of the commission, and also by the opinion of *Fitzherbert*, grant this surety of the good abearing (although the common practice be, that two such justices do join in that doing, whereof also *Fitzherbert* hath very good liking), I will not stick to set forth the common forms, as well of the precept as of the recognizance for the same, wherein if I shall use the names of two justices, you must take that to be done according to the common fashion, and not of any necessity in law. For as I would more gladly use the assistance of a fellow-justice in this behalf, if I may conveniently have it, so if that may not be gotten, I would not greatly fear, when good cause shall require, to undertake the thing myself alone."

"And besides this," he says, "you may see admitted by the opinion of the court, 13 Hen. VII., that if a man in the night season haunt a house that is suspected for bawdry, or use suspicious company, then may the constable arrest him to find surety for his good abearing; for bawdry is not merely a spiritual offence, but mixed and sounding somewhat against the peace of the land."

"And, therefore," says he, "it shall not be amiss at this day, in my slender opinion, to grant surety of the good abearing against him that is suspected to have begotten a bastard child, to the end that he may be forthcoming when it shall be born; for otherwise there will be no putative father found, when the justices shall, after the birth, come to take order for his punishment." *Lamb.* 119.

In the next place, Mr. *Pulton*, who lived about the same time with Mr. *Lambard*, writeth thus:—"The surety of the good abearing is ordained for the preservation of the peace, and it doth differ in nothing from that of the peace, but that there is more difficulty in the performance of it, and the party bound may sooner slide into the peril and danger of it. The surety of good

FOR WHAT
REQUIRED.

abearing is most commonly granted in open sessions, or by two or three justices; or, upon a *supplicavit*, and great cause shown and proved, it is granted in the Chancery or King's Bench. And though one justice alone may grant it, if he will, yet it is seldom done so, unless it be to prevent some great, sudden, and imminent enormity or danger. The surety of the peace is most times taken at the request of one for the preservation of the peace chiefly against one. But the surety for the good abearing is oftentimes granted at the suit of divers, and those must be men of credit, and to provide for the safety of many; for the effect and purport thereof is, that the party bound shall demean himself well in his port, behaviour, and company, and do nothing that may be the cause of breach of the peace, or in putting the people in fear or trouble; and it is chiefly granted against common barrators, common rioters, common quarrellers, common peace-breakers, and persons greatly defamed for resorting to houses suspected to maintain incontinency or adultery, and against those that be generally feared to be robbers or spoilers of the king's people, or which do endamage, disturb, trouble, or put in peril passengers by the way." *Pult.* 18.

Afterwards, Mr. *Dalton*, who wrote towards the latter end of the reign of King James the First, says, "The surety of good behaviour is of great affinity with that of the peace, and is provided chiefly for the preservation of the peace; and is most commonly granted either in the open sessions, or by two or three justices out of sessions. Yet by the words of the commission, as also by the common opinion of the learned, one justice alone out of sessions may grant this surety of the good behaviour. But this is not usual, unless it be to prevent some great and sudden danger, especially against a man that is of any good estate, carriage, or report. And it shall be good discretion in the justices that they do not grant it, but either upon sufficient cause seen to themselves, or upon the suit or complaint of others, and the same very honest and credible persons." *Dalt.* c. 123.

In the next place, Mr. *Hawkins*, who wrote in the reign of King George the First, saith thus:—"There seem to have been some opinions that the statute, speaking of those that be 'not of good fame,' means only such as are defamed and justly suspected, that they intend to break the peace, and that it does not any way extend to those who are guilty of other misbehaviours not relating to the peace. But this seems much too narrow a construction; since the above-mentioned expression of persons of 'evil fame,' in common understanding, as properly includes persons of scandalous behaviour in other respects, as those who by their quarrelsome behaviour give just suspicion of their readiness to break the peace; and accordingly it seems always to have been the better opinion, that a man may be bound to his good behaviour for many causes of scandal, which give him a bad fame, as being contrary to good manners only: as for haunting bawdy-houses with women of bad fame; or for keeping bad women in his own house; or for speaking words of contempt of an inferior magistrate, as a justice of the peace, or mayor, though he be not then in the actual execution of his office; or of an inferior officer of justice, as a constable and such like, being in the actual execution of his office." *1 Haw.* c. 61, s. 2.

"However, it seems the better opinion, that no one ought to be bound to the good behaviour for any rash, quarrelsome, or unmannerly words, unless they either directly tend to a breach of the peace, or to scandalize the government, by abusing those who are entrusted by it with the administration of justice, or to deter an officer from doing his duty; and therefore it seems that he who barely calls another rogue or rascal, or teller of lies, or drunkard, ought not for such cause to be bound to the good behaviour." *1 Haw.* c. 61, s. 3.

"However," says he, "I cannot find any certain precise rules for the direction of the magistrate in this respect; and therefore am inclined to think, that he has a discretionary power to take such surety of all those whom he shall have just cause to suspect to be dangerous, quarrelsome, or scandalous; as of those who sleep in the day, and go abroad in the night; and of such as keep suspicious company; and of such as are generally suspected to be robbers, and the like; and of eves-droppers; and common drunkards; and all other persons, whose misbehaviour may reasonably be intended to bring them

within the meaning of the statute, as persons of evil fame, who being described by an expression of so great latitude, seem in a great measure to be left to the judgment of the magistrate. But if he commit one for want of sureties, he must show the cause with convenient certainty." 1 *Haw. c. 61, s. 4.*

And thus the sense of the statute hath been extended not only to offences immediately relating to the peace, but to divers misbehaviours not directly tending to a breach of the peace; insomuch as it is become difficult to define how far it shall extend, and where it shall stop.

Mr. *Dalton*, in order to determine the same with some kind of certainty, hath (notwithstanding his opinion as above mentioned) inserted a number of instances, wherein sureties of the good behaviour may be granted; and they are these that follow: (a)

FOR WHAT
REQUIRED.

Against whom
sureties of the
good behaviour
may be granted.

1. Against rioters.
 2. Barrators.
 3. Common quarrellers, and common breakers of the peace.
 4. Such as lie in wait to rob, or shall be suspected to lie in wait to rob, or shall assault, or attempt to rob another, or shall put passengers in fear or peril, or shall be generally suspected to be robbers by the highway.
 5. Such as are like to commit murder, homicide, or other grievances, to any of the king's subjects in their bodies.
 6. Such as shall practise to poison another; one instance of which may be the poisoning of their food. Thus, Mr. *Dalton* granted the good behaviour against one who had bought ratsbane, and mingled it with corn, and then cast it among his neighbour's fowls, whereby most of them died.
 7. Such as in the presence and hearing of the justice shall misbehave themselves in some outrageous manner of force or fraud.
 8. Such as are greatly defamed for resorting to houses suspected to maintain adultery or incontinency.
 9. Maintainers of houses commonly suspected to be houses of common bawdry.
 10. Common whoremongers and common whores; for bawdry is an offence temporal as well as spiritual, and is against the peace of the land.
 11. Night-walkers and eves-droppers.
 12. Suspected persons, who live idly, and yet fare well, or are well-apparelled, having nothing whereon to live; unless upon examination they shall give a good account of such their living.
 13. Common gamesters, especially if they have not whereon to live.
 14. Such as raise hue and cry without cause.
 15. Libellers.
 16. Putative father of a bastard child.
 17. Such as persuade or procure the putative father to run away, or the mother to be conveyed away, whereby she leaveth her child to the charge of the town.
 18. Such as abuse a justice's warrant, or shall abuse him or the constable in executing their offices. Nay, it seemeth, he says, that he who shall use words of contempt, or contrary to good manners, against a justice of the peace, though it be not at such a time as he is executing his office, yet he shall be bound to his good behaviour.
 19. Such as charge another before a justice with felony, riot, or forcible entry, and yet will not prosecute or give evidence.
 20. In general, whatsoever act or thing is of itself a misbehaviour, is cause sufficient to bind such an offender to the good behaviour. *Dalt. c. 124.*
- To which others have added other instances; as—
21. Forcible entry. 1 *Haw. c. 64, s. 8.*
 22. Mr. *Hawkins* says, "that he hath heard it agreed in the Court of King's Bench, that a writing full of obscene ribaldry, without any kind of reflection upon any one, is not punishable at all by any prosecution at common law; yet it seems," he says, "that the author may be bound to his good behaviour, as a scandalous person of evil fame." 1 *Haw. c. 73, s. 9.*
 23. A man did beat a woman in Westminster Hall, and he was bound to

(a) And see the respective titles as to these offences throughout this work.

FOR WHAT
REQUIRED.

the good behaviour; and so, says Mr. *Crompton*, "he may be bound to the peace and good behaviour, where he striketh a person in the presence of the justices in sessions." *Crompt.* 124.

24. A man was bound to the good behaviour by the Court of King's Bench, for assaulting and threatening a person, so that he could not attend the court in suit there, without great cost. And so it seemeth that it may be done where one cometh to the sessions about a traverse to be tried there, or to prefer a bill of indictment, if he be assaulted or threatened. *Crompt.* 125.

Observations by
Dr. Burn.

I have omitted to make any remarks in the progress of these authorities, being willing to exhibit them together in one view; I proceed now to take notice of such observations as do occur upon the whole.

First, it appears from hence, that the universal practice of one justice binding to the good behaviour is but of a modern date; although the law for it is the same now that it was near four hundred years ago; and that it was a long time doubted whether one justice alone could require sureties of the good behaviour. But here a distinction ought to be made between the power given by the commission of the peace and the power given by the above-mentioned statute: as to the commission, there seemeth to be no foundation for any doubt, but that thereby one justice alone may require such sureties; for the words are express, "We have assigned you, jointly and severally, and every one of you:" but then that extends only to two instances, namely, to "the threatening of a person concerning his body, or the firing of his house." As to the statute, the doubt seems to have arisen upon this; in that, having appointed who shall be assigned for justices, it then directeth that "they shall have power to restrain offenders;" and it is holden, Mr. *Lambard* hath observed, "that if no power be expressly given by any statute to any one justice alone, he cannot otherwise compel the observation thereof, than by the help of his fellow-justices." And Mr. *Hawkins*, speaking hereof in the case of riots, says, "that if one justice alone, proceeding upon this statute, shall arrest an innocent person as a rioter, it seemeth that he is liable to an action of trespass, and that the party arrested may justify the rescuing of himself; because no one single justice is by this statute made a judge of the said offence: yet, nevertheless," he says, "by a favourable construction which this statute hath received for the advancement of justice, it hath been resolved, that any one justice upon this statute, 'if he find the persons riotously assembled,' may, without staying for his companions, arrest the offenders, and bind them to their good behaviour."

Secondly, it seemeth, from what hath been rehearsed, that the words, "not of good fame," were generally understood for a long time to refer to such offences only as have a relation to the peace, and not to other things which concern not the peace.

Thirdly, that one great inlet to the larger, and at length almost unlimited interpretation of the words, was the case above mentioned, 13 Hen. VII., wherein it was adjudged to be lawful to arrest a man for the good behaviour, for frequenting a suspected bawdy-house, with women of bad fame. And this is the reason which Mr. *Dalton* gives for many of his instances above specified,—namely, that they are more properly against the peace than this same case of avourtry. *Dalt. c.* 124, p. 289.

Fourthly, That when once the gap was opened for the admission of other offences not immediately relating to the peace, they flowed in and multiplied. Thus, in the case of bastardy, having some affinity with the other, of frequenting bawdy-houses, Mr. *Lambard* thought that, with equal reason, the reputed father of a bastard child might be bound to the good behaviour; and, in a few years after, Mr. *Dalton* delivers it absolutely, that he may be so bound.

Fifthly, That, therefore, the natural and received sense of any statute ought not to be departed from without extreme necessity; for that one concession will make way for another, and the latter will plead for the same right of admission as the former.

Sixthly, That, notwithstanding the aforesaid instances given by Mr. *Dalton* and others, it may not be safe in all cases to rely upon every one of them without distinction; not only because it is almost impossible for any two cases to be exactly alike in all their circumstances, but also because in fact divers of them, at different times, have been adjudged otherwise, and others have not

prevailed without much difficulty and contradiction in the courts above, and, perhaps, were at length admitted rather from the conveniency and reasonableness of the thing itself, and from an indulgence usually allowed to those gentlemen who serve their country without gain, and oftentimes with much trouble, than from any clear, positive, and express power given to them by the commission, or by the said statute.

Seventhly, That, notwithstanding all which hath been said, perhaps the case before recited, concerning the frequenting of a suspected bawdy-house, will not support the weight which so many authors have laid upon it. For the question, whether a justice of the peace had cognizance of the offence by virtue of the commission of the peace, or of the statute of the 34 Edw. III. was no part of the dispute; for it was an arrest by the constable *ex officio*, as a conservator of the peace at common law, and without any warrant from a magistrate; and the question was not whether the constable might require sureties for the good behaviour, as a thing different from sureties for the peace, but whether in that case he could arrest at all or not.

And if the authority of this case shall be abated, several of the above-mentioned instances will abate in proportion.

Eighthly, It is to be observed, that others of the above said instances were established upon matters originally determined in the Court of King's Bench, and Mr. *Crompton* himself refers to the authority and practice of that court in several instances. *Crompt.* 120. But it doth by no means follow, from what the justices of the Court of King's Bench may do, that the justices of the peace may do the like; for their authority is circumscribed and limited by their commission and the statute law.

Ninthly, That it will perhaps abate some other of the foregoing instances, if we attend to this consideration: that there is a great difference between what the justices in sessions may do, after a conviction by a jury, for an offence committed, and what a single justice out of the sessions may do, before an offence is committed, and to prevent the same from being committed; or what a single justice may do, upon a summary conviction before him, for an offence, as directed by some special act of Parliament. The truth is, binding to the good behaviour was a discretionary judgment at the common law, given by a court of record for an offence at the suit of the king, after a common law conviction by verdict of twelve men. Trial by his peers is the Englishman's birthright by the great charter, and cannot be taken away but by an authority equal to that which established it,—that is, by act of Parliament; and, therefore, where an act gives a summary conviction before a justice of the peace, and inflicts a punishment upon such conviction, such statute must be pursued both as to the conviction and punishment. And it seemeth incongruous, that a justice of the peace shall have power to bind a man to the good behaviour, for an offence which he himself hath no power to hear and determine; for that is, in effect, giving judgment, and awarding execution, when it doth not and cannot legally appear to him that the person is guilty.

Tenthly, That, therefore, upon the whole, it may be proper to conclude, that the magistrate, in this article of the good behaviour, cannot exercise too much caution and good advisement; that in matters which the law hath left indefinite, it is better to fall short of than to exceed his commission and authority; that to bind a man to the good behaviour upon the statute for *evil fame* in general may not always be with safety: not only because upon an action brought it may be hard to prove such evil fame, but also because in fact it is not always true, for many a good man hath been evil spoken of; that although, in some cases, a justice of the peace may have a *discretionary* power (as Mr. *Hawkins* expresseth it), yet he must remember withal that it is a *legal* discretion, as Mr. *Barlow* terms it, in which, in favour of liberty, great tenderness is to be used; or, as Lord *Coke* hath defined it, discretion is a knowledge or understanding to discern between truth and falsehood, between right and wrong, between shadows and substance, between equity and colourable glosses and pretences, and not to do according to our wills and private affections; and such discretion ought to be limited and bounded with the rules of reason, law, and justice. 5 *Rep.* 100; 10 *Rep.* 140. And see further as to this title, *Justices*, Vol. III. p. 465, 466.

Great caution recommended.

Discretion defined.

II. For what it shall be forfeited.

For what forfeited.

This hath been handled in part as it fell in with the former section; and agreeably to the doctrine there laid down, Mr. Dalton says, that he who is bound to the good behaviour ought to demean himself well in his carriage, and in his company, not doing anything which shall be a cause of breach of the peace, or to put the people in fear, dread, or trouble; and so shall be intended of all things which concern the peace, but not in misdoing of other things which touch not the peace. *Dalt. c. 122.*

And Mr. Hawkins saith, it hath been laid down as a general rule, that whatever will be a good cause to bind a man to his good behaviour will forfeit a recognizance for it; but that this hath since been denied, and indeed seems by no means to be maintainable, because the statute, in ordering persons of evil fame to be bound in this manner, seems, in many places, chiefly to regard the prevention of that mischief which they may justly be suspected to be likely to do; and in that respect requires them to secure the public from that danger which may probably be apprehended from their future behaviour, whether any actual crime can be proved upon them or not; and it would be extremely hard in such cases to make persons forfeit their recognizances, who yet may justly be compellable to give one, as those who keep suspicious company, or those who spend much money idly, without having any visible means of getting it honestly, or those who lie under a general suspicion of being rogues, and the like. *1 Haw. c. 61, s. 5.*

However, it seems that such a recognizance shall not only be forfeited for such actual breaches of the peace for which a recognizance for the peace may be forfeited, but also for some others, for which such a recognizance cannot be forfeited: as, for going armed with great numbers to the terror of the people, or speaking words tending to sedition; and also for all such actual misbehaviours which are intended to be prevented by such a recognizance, but not for barely giving cause of suspicion of what, perhaps, may never actually happen. *1 Haw. c. 61, s. 6.*

IV. Forms, List of.

INFORMATION before a Justice out of Sessions, to require Surety of the Peace or good Behaviour, (No. 1.)

WARRANT thereon, (No. 2.)

WARRANT for good Behaviour on 34 Edw. III. c. 1, (No. 3.)

COMMITMENT for want of Sureties, for a limited period, (No. 4.)

COMMITMENT for want of Sureties, to appear at the Sessions, (No. 5.)

RECOGNIZANCE for the Peace or Good Behaviour, (No. 6.)

LIBERATE to Discharge one Committed for want of Sureties to keep the Peace, (No. 7.)

SUPERSEDEAS, (No. 8.)

LIBERATE to Discharge one committed for want of Personal Appearance at the Sessions, (No. 9.)

ARTICLES of the Peace exhibited at Sessions, (No. 10.)

ARTICLES of the Peace exhibited in the King's Bench, (No. 11.)

(No. 1.)

Information before a Justice out of sessions, to require surety of the peace or good behaviour.

Be it remembered, that on, &c., A. B., of _____, in the said county of _____, [gentleman], came personally before me, J. P., one of his majesty's justices of the peace in and for the said county, at, &c., and on his oath informeth me, that C. D. of, &c. [labourer], did, on, &c., at, &c., most violently and maliciously declare and threaten, &c., and did also, on, &c. [here state the defendant's threats and acts; see form, No. 11, post]; and that, from the above premises, he, this complainant, is afraid that the said C. D. will do him some grievous bodily injury; and therefore prays that the said C. D. may be required to find sufficient sureties to keep the peace

[or, to be of good behaviour, as may be required; see form, post (No. 6), towards him, this complainant. And this complainant also says, that he doth not make this complaint against, nor require such sureties from, the said C. D. from any hatred, malice, or ill-will, but merely for the preservation of his life and person from injury.

Sworn before me, J. P.

A. B.

(No. 2.)

To E. F., Constable of _____, in the said county, and all others whom this Warrant thereon may concern.

Whereas A. B., of _____, in the said county, [gentleman], hath this day made information on oath before me, J. P., one of his majesty's justices of the peace in and for the said county, at, &c., that C. D., of, &c. [labourer], did, on, &c., at, &c. [here set forth the complaint, as in the above form to the *, in the past tense, describing the complainant by his name]; and therefore the said A. B. hath prayed that the said C. D. may be required to find sufficient sureties to keep the peace [or, be of good behaviour, as the case may be] towards him, the said A. B. I do, therefore, hereby require and command you to apprehend and bring the said C. D. before me, or some other of his majesty's justices of the peace for the said county, on, &c., at, &c., to answer the said complaint, and to find sufficient sureties to keep the peace [or, be of good behaviour] towards his majesty and all his liege people, and especially towards the said A. B., for such term as shall be then enjoined him, and to be further dealt with according to law. Given under my hand and seal, the _____ day of _____, &c.

J. P. (L. S.)

(No. 3.)

County of } J. T., Esq., and T. L., Esq., justices of our lord the king, assigned to
_____ } keep the peace within the said county, to the sheriff of the said county,
to the constable of the hundred of _____, in the said county, to the petty constables of the town of _____, in the said county, and to all and singular the bailiffs, constables, and other officers, of our said lord the king, as well within liberties as without, in the same county, greeting:

Warrant for the good behaviour, on the 34 Edw. 3, c. 1. (a)

Forasmuch as we are given to understand, by the information, testimony, and complaint of many credible persons, that A. O., of _____, in the county aforesaid, [gentleman], and B. O., of the same, [yeoman], are not of good name and fame, nor of honest conversation, but evil doers, rioters, barrators, and disturbers of the peace of our said lord the king, so that murder, homicide, strifes, discords, and other grievances and damages, amongst the lieges of our said lord the king, concerning their bodies, are likely to arise thereby: therefore, on the behalf of our said lord the king, we command you, and every of you, that you omit not by reason of any liberty within the county aforesaid, but that you attach, or one of you do attach, the aforesaid A. O. and B. O., so that you have them before us, or others our fellows, justices of our said lord the king, assigned to keep the peace within the county aforesaid, as soon as they can be taken [or, before the justices of our said lord the king, assigned to keep the peace within the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, at the next general quarter sessions of the peace to be holden in and for the said county], to find then, before us, [or, the said justices] sufficient surety and mainprize for their good behaviour towards our said lord the king, and all his people, according to the form of the statute in such case made and provided. And this you shall in nowise omit, on the peril that shall ensue thereon. And have you before us [or, before the said justices, at the sessions aforesaid] this precept. Given under our seals, at, &c., the _____ day of _____, &c.

(No. 4.)

_____ } To E. F., the Constable of _____, in the said county, and also to
_____ } the keeper of his majesty's [gaol] for the said county, and others whom this
may concern. Commitment for want of sureties by the justice.

Whereas A. B., of, &c. [here recite the complaint, as in the warrant, ante, No. 2]: and whereas the said C. D. was this day brought and appeared before me, J. P., one of his majesty's justices of the peace in and for the said county, at, &c., to

FORMS.

answer the said complaint; and I, the said justice, have ordered and adjudged, and do hereby order and adjudge, that the said C. D. shall enter into his own recognizance in the sum of [100l.], with two sufficient sureties in the sum of [50l.] each, to keep the peace [or, be of good behaviour, as the case may be] towards his majesty and all his liege people, and particularly towards the said A. B., for the term of [twelve calendar months] now next ensuing. And, insomuch as the said C. D. hath refused and still refuses to enter into such recognizance, and to find such sureties as aforesaid, I do hereby require and command you, the said constable, forthwith to convey the said C. D. to the [common gaol] of the said county, and to deliver him to the keeper thereof, together with this warrant. And I do also require and command you, the said keeper, to receive the said C. D. into your custody in the said [gaol], and him there safely to keep for the space of [twelve calendar months], unless he, in the meantime, enter into such recognizance with such sureties, as aforesaid, to keep the peace in the manner and for the term above mentioned. Herein fail not. Given under my hand and seal, the _____ day of _____, &c.

J. P. (L. S.)

(No. 5.)

Commitment for
want of sureties
to appear at the
sessions.

_____ { To E. F., the Constable of _____, in the said county, and also to the keeper of his majesty's [gaol] for the said county, and all others whom this may concern.

Whereas [here recite the complaint, as in the form of warrant, ante, No. 2]: and whereas the said C. D., having been this day brought and appeared before me, the said justice [or, J. P., one of his majesty's justices of the peace in and for the said county], to answer the said complaint, and having been required by me to find sufficient sureties, as well for his appearance at the next general quarter sessions of the peace to be held for the said county, to do what shall be then and there enjoined him by the court, as also in the meantime to keep the peace [or, be of good behaviour, as the case may be] towards his majesty and all his liege people, and especially towards the said A. B., hath refused and neglected, and still refuses and neglects, to find such sureties. I do, therefore, hereby require and command you, the said constable, forthwith to convey the said C. D. to the [common gaol] of the said county, and to deliver him to the keeper thereof, together with this warrant. And I do also require and command you, the said keeper, to receive the said C. D. into your custody, and him there safely to keep until the next general quarter sessions of the peace to be held for the said county, unless he in the meantime find sufficient sureties as well for his appearance at the said sessions as in the meantime to keep the peace, as aforesaid. Given under my hand and seal, the _____ day of _____, &c.

J. P. (L. S.)

(No. 6.)

Recognizance
for the peace or
good behaviour.

_____ { Be it remembered, that on, &c., A. O., of _____, in the county of _____, aforesaid, [yeoman], A. S., of the same place, [yeoman], and B. S., of the same place, [yeoman], came before me, H. C., [doctor of laws], one of the justices of our said lord the king, assigned to keep the peace in and for the said county, and acknowledged themselves to owe to our said lord the king, to wit, the said A. O. the sum of [20l.], and the said A. S. the sum of [10l.], and the said B. S. the sum of [10l.], of good and lawful money of Great Britain, to be respectively made and levied of their several goods and chattels, lands and tenements, to the use of our said lord the king, his heirs and successors, if he, the said A. O., shall fail in performing the condition underwritten.

Acknowledged before me, H. C.

If the party be bound merely to keep the peace, or be of good behaviour, for a specified time, the condition will be thus: The condition of this recognizance is such, that if the above bounden A. O. shall keep the peace [or, be of good behaviour, as the case may be] towards the king, and all his liege people, and especially towards A. I., of _____, in the said county, [gentleman], for the term of [twelve calendar months] now next ensuing, then the said recognizance shall be void, or else remain in its force.

If the party be bound to appear at the sessions, the condition of the recognizance will be thus: The condition of this recognizance is such, that if the said C. D. shall personally appear at the next general quarter sessions of the peace to be held for the said county, to do and receive what shall be then and there enjoined him by the court, and, in the meantime, shall keep the peace [or, be of good behaviour] towards his majesty and all his liege people, and especially towards the said A. B. Then, &c.

(No. 7.)

_____ { To E. F., the keeper of his majesty's [goal] for the said county, and others whom this may concern.

Liberate to discharge one committed for want of sureties to keep the peace.

You are hereby commanded to discharge out of your custody the body of A. O., of _____, in the said county, [labourer]; he having this day entered into a recognizance before me, J. P., one of his majesty's justices of the peace in and for the said county, in the sum of [100L], with two sureties in [50L] each, to keep the peace [or, be of good behaviour, as the case may be] towards his majesty, and all his liege people, and especially towards A. B., of, &c., [gentleman], for the space of [twelve calendar months] now next ensuing. Given under my hand and seal, the _____ day of _____, &c.

(No. 8.)

_____ { J. R., Esq., one of the justices of our lord the king, assigned to keep the peace in and for the county aforesaid, to the sheriff, bailiffs, constables, and others the faithful ministers and subjects of our said lord the king within the said county, and to every of them, greeting: Supersedeas.

Forasmuch as A. O., of _____, in the said county, [yeoman], hath personally come before me, at _____, in the said county, and hath found sufficient surety, that is to say, A. S., of _____, [yeoman], and B. S., of _____, [yeoman]; either of the which hath undertaken for the said A. O., under the pain of [20L], and he, the said A. O., hath undertaken for himself, under the pain of [40L], that he, the said A. O., shall personally appear at the next general quarter sessions of the peace to be holden in and for the said county, then and there to do and receive what shall be enjoined him by the said court; and, in the meantime, shall well and truly keep the peace [or, be of the good behaviour, as the case may be] towards our said lord the king, and all his liege people, and especially towards A. I., of _____, [yeoman]. Therefore, on the behalf of our said lord the king, I do command you, and every of you, that you utterly forbear and surcease to arrest, take, imprison, or otherwise by any means for the said cause to molest the said A. O.; and if you have, for the said occasion, and for none other, taken and imprisoned him, the said A. O., that then him you deliver, or cause to be delivered, and set at liberty, without further delay. Given at _____, aforesaid, in the county aforesaid, under my seal, this _____ day of _____, &c.

(No. 9.)

_____ { J. D., Esq., one of the justices of our lord the king, assigned to keep the peace in and for the county aforesaid, to the keeper of his majesty's [goal] at _____, in the said county, greeting:

Liberate to discharge one committed for want of sureties for personal appearance at sessions.

Forasmuch as A. O., in the prison of our said lord the king, in your custody now being, at the suit of A. I., of _____, in the said county, [yeoman], for the want of his finding sufficient sureties for his personal appearance at the next general quarter sessions of the peace, to be holden in and for the said county, and for his keeping the peace [or, being of the good behaviour, as the case may be], in the meantime, towards our said lord the king, and all his liege people, and especially towards the said A. I., hath found before me sufficient sureties, to wit, A. S., of _____, [yeoman], and B. S., of _____, [yeoman], either of which hath undertaken for the said A. O., under the pain of [20L], and he, the said A. O., hath undertaken for himself, under the pain of [40L], that he, the said A. O., shall and will personally appear at the next general quarter sessions of the peace to be holden in and for the said county, and shall well and truly keep the peace [or, be of the good behaviour, as the case may be], in the meantime, towards our said lord the king, and all his liege people, and especially towards the said A. I. Therefore, on the behalf of our said lord the king, I do command you, that if the said A. O. do remain in the said [goal], for the said cause, and for none other, then you forbear to grieve or detain him any longer, but that you deliver him thence, and suffer him to go at large, and that upon the pain that will fall thereon. Given under my seal, at _____, in the said county, the _____ day of _____, &c.

(No. 10.)

At the quarter [or, general quarter] sessions of the peace of our lord the king, holden at [the New Sessions House, on Clerkenwell Green], in and for the county of [Mid-

Articles of the peace exhibited at sessions.

FORMS.

dlesex], [by adjournment], on [Monday], the day of , in the year of the reign of our sovereign lord , King of Great Britain and Ireland, before W. M., J. P., W. D., E. P., Esqs., and others their fellows, justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county of [Middlesex], and also to hear and determine divers felonies, trespasses, and other misdeeds, committed in the same county.

[Middlesex]. Articles of the Peace exhibited by W. P., of , in the parish of , in the said county of [Middlesex], [cabinet-maker], on behalf of himself [and Hannah, his wife (she, the said Hannah, being now confined through sickness in this exhibitant's dwelling-house, situate as aforesaid)], against J. M., late of , in the said county, [shoemaker], in order to preserve the lives and persons of himself, this exhibitant, and the said Hannah, his wife, from bodily harm.

[Here state the subject-matter of the complaint and causes of fear, which may be as in form *infra*, *mutatis mutandis*.]

This exhibitant, on his oath, saith, that the said H. P., this exhibitant's said wife, is now so sick and weak, that she cannot be removed from her home to attend this honourable court, to join in the exhibition of this complaint; and that he, this exhibitant, by means of the premises aforesaid, conceives himself and his said wife to be in great bodily danger. And he further saith, that he doth not make this complaint against the said J. M. through any hatred, malice, or ill-will, which he hath or beareth towards the said J. M., but merely for the preservation as well of the life of his said wife as of his own, and also of their persons from bodily harm.

Sworn at the [New Sessions House, on Clerkenwell Green], this day of , 18

W. P.

By the Court.

(No. 11.)

Of Easter Term, in the [first] year of the reign of King [William the Fourth].

England. Articles of the Peace exhibited by C. B., wife of A. B., of , [gentleman], against the said A. B., her husband, through fear of death, or of receiving some great bodily harm.

[Here state the causes producing the fear; and the mode of stating them may be collected from the following matters:]

First. This exhibitant, on her oath, saith, that she hath been married to the said A. B. for the space of [six years and upwards]; and that, for the space of [one year and ten months] before the [1st day of November] last past, the said A. B. hath treated this exhibitant with great cruelty and barbarity, and without any provocation whatever from this exhibitant; and, in particular, hath frequently, during the time last aforesaid, struck and threatened to strike this exhibitant, and dragged her about his [dwelling-house].

Secondly. This exhibitant, on her oath, saith, that the said A. B., having made a voyage to the [East Indies], returned on or about the [29th day of September, A. D. 1806]; and, soon after his return, commenced or renewed an acquaintance with a woman who was known by the name of E., with whom, as well as with other women, the said A. B. frequently cohabited, as this exhibitant hath great reason to believe; this exhibitant having known the said woman called by the name of E. shut into the said A. B.'s [bed-room], where she hath remained with him several hours. And this exhibitant saith, that the said A. B. compelled this exhibitant to reside in mean lodgings, different from his place of residence; and that, whenever this exhibitant ventured to go to the said A. B.'s [chambers], to expostulate with him on his ill-treatment, he hath beaten or threatened to beat this exhibitant; and this exhibitant saith that, at one time in particular, during the time last aforesaid, the said A. B. did, with a violent blow, knock this exhibitant down in the said [chambers], and that this exhibitant, in consequence of the said blow, lay senseless for a considerable time.

Thirdly. This exhibitant, on her oath, saith, that, by means of the cruel treatment of the said A. B., before set forth, and particularly of his having, at divers times within the space of [three months] last past, as this exhibitant hath been informed and believes, threatened to seize, confine, beat, maim, or ill-treat this exhibitant, she, this exhibitant, is put into the utmost fear and danger, and verily believes that the said A. B. will put his said threats into execution, and will do this exhibitant some bodily hurt; and there-

Articles of the peace exhibited by a wife against her husband, in the King's Bench.

fore this exhibitant is prevented from going out about her lawful occasions, until she can obtain that protection from the laws of this country which this honourable court has authority to grant. And this exhibitant further saith, that she is now under great fear and apprehension that the said A. B. will take the first opportunity of doing this exhibitant some bodily hurt, unless he is restrained therefrom by this honourable court; and therefore this exhibitant most humbly craves that the said A. B. may be ordered by this honourable court to find sufficient sureties for keeping the king's peace towards this exhibitant.

Lastly. This exhibitant saith, that she doth not make this complaint against the said A. B. through any hatred, malice, or ill-will, which she hath or beareth towards him, but merely for the preservation of her life, and also of her person from bodily harm.

The above-named C. B. was sworn to the truth of the above premises on [Saturday] next after , in the [first year of the reign of King William the Fourth].

C. B.

By the Court.

Surgeons. See Physicians, Surgeons, and Apothecaries, ante.

Suspicion, How far Party may be arrested on. See Arrest, Vol. I.

Swans. See Game, Vol. II.

Swearing.

[19 Geo. II. c. 21; 22 Geo. II. c. 35; 4 Geo. IV. c. 31.]

AS to Blasphemy, see Blasphemy, Vol. I.

By the canons of the church, if any offend their brethren by swearing, the churchwardens shall present them; and such notorious offenders shall not be admitted to the holy communion, till they be reformed. *Can.* 109.

Punishment in the spiritual court.

By the 19 Geo. II. c. 21, s. 1, it is enacted, that "if any person or persons shall profanely curse or swear, and be thereof convicted on the oath of any one or more witness or witnesses, before any one justice of the peace for any county, city, riding, division, or liberty, or before the mayor, justice, bailiff, or other chief magistrate of any city or town corporate, or by the confession of the party offending, every person or persons so offending shall forfeit and lose the respective sums hereinafter mentioned; (that is to say)

Every day labourer, common soldier, common sailor, and common seaman, 1s.

And every other person under the degree of a gentleman, 2s.;

And every person of or above the degree of a gentleman, 5s.

The penalty of profane cursing and swearing.

"And in case any such person or persons shall, after conviction, offend a second time, every such person shall forfeit and lose double; and, for every other offence after a second conviction, treble the sum first forfeited by any offender, for profane cursing and swearing as aforesaid."

Sect. 2. "That in case any person or persons shall profanely swear or curse, in the presence and hearing of any justice of the peace for any county, riding, division, or liberty, or in the presence or hearing of any mayor, justice, bailiff, or other chief magistrate of any town corporate, every such justice, mayor, or

Profane swearers in the hearing of any justice, &c. to be convicted without other proof.

19 Geo. 2, c. 21.

other chief magistrate as aforesaid, shall and is hereby authorized and required to convict every such offender of such offence (in the form and manner hereinafter set forth) without any other proof whatsoever."

Constables, &c.
to seize persons
profanely swear-
ing, if unknown,

Sect. 3. "That in case any person or persons shall profanely swear or curse, in the presence and hearing of any constable, petty constable, tithingman, or other peace-officer, it shall and may be lawful for any and every such constable, petty constable, tithingman, or other peace-officer, and they and each of them are hereby authorized and required (in case any such person shall be unknown to such constable, petty constable, tithingman, or other peace-officer) to seize, secure, and detain such offender or offenders, unknown to him or them as aforesaid; and such offender or offenders forthwith to carry before the next justice of the peace for the county, riding, division, or liberty, or before the mayor, justice, bailiff, or other chief magistrate of the town corporate, wherein such offence was committed; and the said justice, mayor, or other chief magistrate, is hereby authorized and required, on the oath of such constable, petty constable, tithingman, or other peace-officer, to convict the offender in manner and form hereinafter directed: and in case any such person so profanely swearing or cursing, in the presence or hearing of any such constable, petty constable, tithingman, or other peace-officer, shall be known to any of them, every such constable, petty constable, tithingman, or other peace-officer, shall, and is hereby required speedily to make information before some justice of the peace for the county, riding, division, or liberty, mayor, justice, bailiff, or chief magistrate of any town corporate as aforesaid, in order that the offender or offenders may be by such justice, mayor, bailiff, or other chief magistrate, convicted thereof and punished for the same, in manner and form as in and by this act is directed."

and if they are
known, informa-
tion to be made.

Justices, &c.
to offer off-
fender to ap-
pear, &c.

Sect. 4. "That every such justice of the peace, mayor, or other chief magistrate as aforesaid, shall immediately, upon information given upon oath of any such constable, petty constable, tithingman, or other peace-officer, or of any other person whatsoever, cause the offender or offenders to appear before him; and upon such information being proved as aforesaid, convict such offender or offenders in such manner as in and by this act is prescribed: and in case such offender or offenders shall not immediately pay down the respective sum so forfeited, or give security to the satisfaction of such justice, mayor, or other chief magistrate, before whom such conviction is made, it shall and may be lawful for such justice, mayor, or other chief magistrate, to commit the offender to the house of correction for the county, riding, division, liberty, city, or town corporate where such offence shall be committed, there to remain, and be kept to hard labour for the space of ten days."

Penalty to be
paid or security
given, or offender
to be committed
for ten days to
house of correc-
tion.

Common soldiers,
&c. not paying
penalty, &c.

Sect. 5. "That in case any common soldier belonging to any regiment in his majesty's service, or any common sailor or common seaman belonging to any ship or vessel, shall be convicted of profane cursing or swearing as aforesaid, and shall not immediately pay down the penalty by him forfeited, or give security for the same as aforesaid, and also the cost of the information, summons, and conviction, as in and by this act is directed; every such common soldier, common sailor, or common seaman, instead of being committed to the house of correction, as by this act is directed, shall by the said justice, mayor, bailiff, or other head-officer, be ordered to be publicly set in the stocks for the space of one hour, for every single offence; and for any number of offences, whereof he shall be convicted at one and the same time, two hours."

Set in stocks.

Justices, not
doing their duty,

Sect. 6. "That if any justice of the peace of any county, riding, division, or liberty, mayor, justice, bailiff, or other chief magistrate of any town corporate, shall wilfully and wittingly omit the performance of his duty, in the execution of this act, he shall forfeit and lose the sum of *5l.*; one moiety thereof to the use of the informer, and the other moiety thereof to the use of the poor of the parish wherein such justice, mayor, or other chief magistrate shall reside; to be recovered by action, suit, bill, or plaint, in any of his majesty's courts of record at Westminster; wherein no essoin, protection, or wager of law shall be allowed, or more than one imparlance."

forfeit *5l.*

Constables not
doing their duty,

Sect. 7. "That if any constable, petty constable, tithingman, or other peace-officer, shall wilfully and wittingly omit the performance of his duty in the exe-

cution of this act, and be thereof convicted by the oath of one witness, before any justice of the peace for any county, riding, division, or liberty, or before the mayor, justice, bailiff, or other chief magistrate of any town corporate, every such constable, petty constable, tithingman, or other peace-officer so offending, shall forfeit and lose the sum of 40s., to be levied and recovered by distress and sale of the offender's goods and chattels, by virtue of a warrant under the hand and seal of such justice, mayor, or other chief magistrate, and to be disposed of, one moiety thereof to the use of the informer, and the other moiety to the use of the poor of the parish where such offence shall be committed; and in case such offender shall not have sufficient goods and chattels whereon to levy the said penalty, it shall and may be lawful for such justice, mayor, or other magistrate, to commit such offender to the house of correction for the county, riding, division, liberty, city, or place, there to remain, and be kept to hard labour for the space of one month."

forfeit 40s.

and for want of distress, to be committed for one month to the house of correction.

Sect. 8. "That all and every justice of the peace for any county, riding, division, or liberty, and all and every mayor, justice, bailiff, or other chief magistrate of any town corporate, before whom any person or persons shall be convicted of profane swearing or cursing, shall cause the conviction to be drawn up in the words and form following:—

"*Middlesex* } Be it remembered, that on the _____ day of _____, in the _____
to wit. } year of his majesty's reign, A. B. was convicted before _____, _____
me, _____, one of his majesty's justices of the peace for the county, riding, _____
division, or liberty aforesaid [or, before me, _____, mayor, justice, bailiff,
or other chief magistrate of the city or town of _____, within the county of _____,
as the case shall be], of swearing one or more profane oath or oaths [or, of cursing one or more profane curse or curses, as the case shall be]. Given under my hand and seal, the day and year aforesaid."

Form of conviction,

Which said form and conviction shall not be liable to be removed by *certiorari* into his majesty's Court of King's Bench, but shall be deemed and taken to be final to all intents and purposes whatsoever; and the said justice, mayor, bailiff, or other chief magistrate before whom such conviction shall be made, shall cause the same to be fairly wrote over upon parchment, and returned to the next general or quarter sessions of the peace for the county wherein such conviction was made, to be filed by the clerk of the peace, and remain and be kept amongst the records of the said county."

to be wrote on parchment, and returned to the next sessions.

Sect. 9. "That all and every justice of the peace for any county, riding, division, or liberty, and every mayor, justice, bailiff, or other chief magistrate of any city or town corporate may, and they are hereby authorized and required to put this act in execution against any person or persons within their several jurisdictions, although such justice, mayor, bailiff, or other chief magistrate shall be rated and pay to the relief of the poor of any parish, town, or place, where any offence, contrary to the true intent and meaning of this act, shall be committed; any law or statute to the contrary in anywise notwithstanding."

Justices, &c. to put this act in execution indiscriminately.

Sect. 10. "That all and every penalty or penalties inflicted by this act, upon any person or persons, for profane cursing and swearing, shall be disposed of for the benefit of the poor of the parish wherein such offence was committed; and that all charges of the information and conviction of any such offender shall be borne and paid by the party offending, if able, over and above the penalties inflicted by this act, which charges shall be settled and ascertained by the justice of peace, mayor, bailiff, or other chief magistrate before whom such conviction shall be made: and in case such party shall not be able, or shall not immediately pay the said charges and expenses, or give security for the same to the satisfaction of such justice of the peace, mayor, bailiff, or other chief magistrate before whom such information and conviction shall be made, to commit such offender to the house of correction as aforesaid, there to remain and be kept to hard labour for the space of six days, over and above such time

Penalties, how to be disposed of.

Offenders to pay all charges over and above the penalties,

or be committed to the house of correction for six days extraordinary. (a)

(a) It should seem the 5 Geo. IV. c. 18, s. 3 (see *Distress*, Vol. I.) authorizing the party to be discharged on payment of the penalty and costs, is not applicable to a commitment for swearing.

19 Geo. 2, c. 21.

for which such offender may be committed in default of payment of the penalties inflicted by this act; and in such case no charges of information and conviction shall be paid by any person whatsoever."

General issue.

Sect. 11. "That if any action or suit shall be commenced or brought against any justice of the peace, constable, or other officer or person whatsoever, for doing or causing to be done, any thing in pursuance of this act concerning the said offences, the defendant in that action may plead the general issue, and give the special matter in evidence; and if upon such action verdict be given for the defendant, or the plaintiff become nonsuit, or discontinue his action, then the defendant shall have treble costs."

Treble costs.

Proof, &c. to be made within eight d.ys.

Sect. 12. "That no person shall be prosecuted or troubled for any offence against this statute hereinbefore or hereinafter mentioned, unless the same be proved or prosecuted within eight days next after the offence committed."

4 Geo. 3, c. 31.

Sect. 13, requiring the act to be read four times in the year in all churches and chapels, is repealed by 4 Geo. IV. c. 31.

Fee of 1s. to the Justice's, &c. clerk.

Sect. 14. "That the clerk of the justice, mayor, bailiff, or other chief officer before whom proceedings upon this act shall be had, shall and may receive and take for the information, summons, and conviction of every offender against this act, the sum of 1s. and no more."

21 Jac. 1, c. 20, null & 7 W. 3, c. 11, repealed.

Sect. 15. "That an act made in the twenty-first year of the reign of King James the First, intituled, 'An Act to prevent and reform profane Cursing and Swearing;' and also an act made in the sixth and seventh years of the reign of King William the Third, intituled, 'An Act for the more effectual suppressing profane Cursing and Swearing,' shall be and are hereby repealed."

22 Geo. 2, c. 33. Navy.

By the 22 Geo. II. c. 33, persons belonging to his majesty's ships of war, guilty of profane oaths or curses, shall incur such punishment as a court-martial shall impose.

As to the form of the conviction, see *Conviction*, Vol. I.

Forms.

(No. 1.)

Information for swearing.

County of } *The information of A. I., of* , *in the county aforesaid, [yeoman], made on oath, on, &c., at, &c., before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county; who saith,*

That, on, &c., now last past, at, &c., he heard A. O., of , *in the said county, [labourer], swear one profane oath [or, curse one profane curse], in these words, to wit, &c.*

(No. 2.)

Summons thereon.

County of } *To E. F., the Constable of* , *and all others whom this may concern.*

Whereas information hath this day been made before me, J. P., Esq., one of his majesty's justices of the peace for the said county, upon the oath of A. I., of [yeoman], that, on , *the* day *of this present month of* , *he heard A. O., of* , *in the said county, [labourer], at* , *in the parish of* , *in the said county, swear one profane oath [or, curse one profane curse]: these are, therefore, to command you to cause the said A. O. forthwith to appear before me, to answer the premises, and to be further dealt with according to law. Given under my hand and seal, at* , *in the said county, the* day *of* , *in the* year *of* .

Conviction.

See form prescribed by the act, ante, 695.

(No. 3.)

Commitment thereon.

County of } *To E. F., the Constable of* , *in the said county, and to the keeper of the [house of correction] at* , *in the said county, and all others whom this may concern.*

Whereas A. O., of , *in the said county, [labourer], is and stands convicted this day before me, J. P., one of his majesty's justices of the peace in*

and for the said county, of swearing [one profane oath], on the day of , at , in the parish of , in the said county, whereby he hath forfeited the sum of [one shilling] to the poor of the said parish of . And whereas the said A. O. hath refused and doth refuse to pay down the said sum of [one shilling], for the use of the poor aforesaid, and also hath refused and doth refuse to give satisfactory security to pay the same; these are, therefore, to require you, the said constable, to convey the said A. O. to the [house of correction], at aforesaid, and deliver him to the keeper thereof, together with this warrant. And I do hereby command you, the said keeper, to receive him, the said A. O., into your custody in the said [house of correction], and there to detain and keep him to hard labour for the space of [ten days]; and, for so doing, this shall be your sufficient warrant. Given under my hand and seal, at , in the said county, the day of , in the year of the reign of .

If he also refused to pay the charges, these words may be added: "Satisfactory security for the same. And whereas the said A. O. hath likewise refused and doth refuse to pay the sum of [one shilling], which I have settled and ascertained as and for the charges and proceedings against him touching the premises, and hath refused and doth refuse to give satisfactory security to pay the same: these are, therefore, to require you, &c., for the space of [sixteen] days," &c.

Streets. See *Excise*, Vol. II.

Tanners. See *Leather*, Vol. III.

Taxes, Assessed, &c.

IN the preceding parts of this work, the taxes called duties of *Excise and Customs*, *Land Tax*, *Post-Horse Duty*, and *Stamp Duties*, have already been considered. In the prior editions, as well as in the present, under the above head of *Taxes*, the other branches of revenue principally denominated *Assessed Taxes* are considered, together with the provisions relative to the commissioners of the affairs of taxes, and their inferior officers, and the regulations affecting the assessment, raising, levying, and paying these taxes, and the acts relating to compositions for taxes.

General observations.

Assessed Taxes consist of the duties on *Windows* or lights, on *Inhabited Houses*, on *Servants*, *Carriages*, *Horses*, *Mules*, and *Dogs*, *Armorial Bearings*, *Game Certificates*, and other the duties transferred to the commissioners for the affairs of taxes. The origin of some of these taxes is stated in 1 *Bla. Com.* 324, 325.

Before we proceed to divide and consider this subject, it may be useful to give, first, a list of the repealed or expired acts; secondly, a list of those acts still in force; and, thirdly, a list of those which relate to compositions for taxes:—

I. Assessed Tax-Acts repealed.

7 & 8 W. 3, c. 18.
8 & 9 W. 3, c. 20, s. 15.
1 Anne, (st. 1,) c. 13.
5 Anne, ——— c. 13.
7 Anne, ——— c. 7.

8 Anne, (st. 1,) c. 4.
3 Geo. I. c. 8, s. 17.
5 Geo. I. c. 19.
6 Geo. I. c. 21, s. 61. (a)

I. List of Assessed Tax Acts repealed.

(a) All the above were repealed by the next statute, 20 Geo. II. c. 3, as to duties on houses and windows.

I. List of Assessed Tax Acts repealed.

20 Geo. II. c. 3.	36 Geo. III. c. 16.
———— c. 42.	———— c. 17.
21 Geo. II. c. 10.	———— c. 117.
26 Geo. II. c. 17.	———— c. 124.
2 Geo. III. c. 8.	37 Geo. III. c. 3.
6 Geo. III. c. 38.	———— c. 69.
7 Geo. III. c. 33.	———— c. 106.
17 Geo. III. c. 39.	———— c. 107.
18 Geo. III. c. 26.	———— c. 108.
19 Geo. III. c. 59.	———— c. 134.
21 Geo. III. c. 31.	———— c. 186.
23 Geo. III. c. 66.	38 Geo. III. c. 40.
24 Geo. III. st. 2, c. 31.	———— c. 41.
———— c. 38.	———— c. 53.
25 Geo. III. c. 30.	———— c. 80.
———— c. 43.	———— c. 93.
———— c. 47. (a)	41 Geo. III. c. 9.
———— c. 49.	———— c. 40.
———— c. 70.	———— c. 62.
26 Geo. III. c. 9.	———— c. 69.
———— c. 79.	———— c. 71.
29 Geo. III. c. 9.	42 Geo. III. c. 34.
———— c. 49.	———— c. 37.
31 Geo. III. c. 5.	———— c. 100. (b)
32 Geo. III. c. 2.	45 Geo. III. c. 13. (c)
———— c. 3.	46 Geo. III. c. 78. (c)
35 Geo. III. c. 109.	———— c. 84. (d)
36 Geo. III. c. 14.	52 Geo. III. c. 147. (d)
———— c. 15.	55 Geo. III. c. 53. (e)

II. List of Assessed Tax Acts now in force.

II. Assessed Tax-Acts now in Force.

43 Geo. III. c. 99.	50 Geo. III. c. 105.
———— c. 161. (f)	51 Geo. III. c. 72.
45 Geo. III. c. 5.	52 Geo. III. c. 93. (i)
———— c. 71.	54 Geo. III. c. 141.
48 Geo. III. c. 55. (g)	55 Geo. III. c. 161.
———— c. 141.	56 Geo. III. c. 66.
50 Geo. III. c. 104. (h)	57 Geo. III. c. 25. (k)

(a) This act transfers the receipt and management of duties on *carriages* and *horses* from the commissioners of excise and stamps, to those for the affairs of taxes.

(b) All the above, and all prior acts thereby repealed, were repealed by 43 Geo. III. c. 161, s. 84, except as to arrears and penalties, and such provisions of the said acts as relate to matters other than the duties.

(c) For granting additional duties on horses used in riding, &c. repealed by 48 Geo. III. c. 55, s. 2.

(d) For granting allowances of duty in respect of children, repealed by 56 Geo. III. c. 66, s. 11.

(e) This is expired.

(f) Duties granted by this act repealed by 48 Geo. III. c. 55, s. 2. Du-

ties granted by 48 Geo. III. c. 55, to be levied under regulations of 43 Geo. III. c. 161.

(g) Schedule repealed by 52 Geo. III. c. 93, s. 3. So much of act as relates to duties on husbandry, horses, &c. repealed by 1 & 2 Geo. IV. c. 110.

(h) *Ibid.*

(i) Additional duties granted by this act, consolidated with those granted by 48 Geo. III. c. 55, and 50 Geo. III. c. 104. Powers, &c. of latter acts to remain in force. Certain duties granted by these acts repealed by 6 Geo. IV. c. 7. So much of act as relates to duties on husbandry, horses, &c. repealed by 1 & 2 Geo. IV. c. 110.

(k) Sects. 1 & 5 extended by 6 Geo. IV. c. 7.

58 Geo. III. c. 16. (a)	3 Geo. IV. c. 50. (c)
———— c. 17. (b)	———— c. 88. (e)
59 Geo. III. c. 13. (b)	4 Geo. IV. c. 11. (c)
———— c. 51. (c)	———— c. 45. (c)
———— c. 118.	5 Geo. IV. c. 44. (c)
1 Geo. 4, c. 73. (c)	6 Geo. IV. c. 7. (f)
1 & 2 Geo. 4, c. 110. (d)	7 Geo. IV. c. 22. (c)
———— c. 113. (c)	10 Geo. IV. c. 21. (c)

II. List of Assessed Tax Acts now in force.

III. Assessed Tax-Acts relating to Compositions for Taxes.

59 Geo. III. c. 51.	3 Geo. IV. c. 45.
1 Geo. IV. c. 73.	5 Geo. IV. c. 44.
1 & 2 Geo. IV. c. 113.	7 Geo. IV. c. 22.
3 Geo. IV. c. 50.	10 Geo. IV. c. 21.
4 Geo. IV. c. 11.	

III. List of Assessed Tax Acts relating to Compositions, &c.

The above subsisting enactments relative to the assessed taxes may be properly arranged under the following general heads:—

- I. *The Act consolidating the Provisions relating to the Management of the Commissioners for the Affairs of Taxes and other Officers, and other subsequent Acts relating thereto, p. 699.*
- II. *The Acts regulating the Assessments and Collection, &c. p. 735.*
- III. *The Assessed Taxes themselves, p. 755.*
- IV. *Of Compounding for Assessed Taxes.*

I. The Act consolidating the Provisions relating to the Management of the Commissioners for the Affairs of Taxes and other Officers, and other subsequent Acts relating thereto.

[43 Geo. III. c. 99; 45 Geo. III. c. 5, ss. 1 & 2; 45 Geo. III. c. 71, ss. 1 & 2; 48 Geo. III. c. 55, s. 1; 3 Geo. IV. c. 88.]

These several provisions may be arranged under the following heads; but it has been considered by the editor to be most expedient to give the statutes themselves, and the decisions thereunder, as the subject is arranged in the statutes, nearly in the same order, viz:

1. *Qualifications and Powers of Commissioners.*
2. *Meetings of Commissioners—Appointment of Clerks and Assessors, and their Powers and Duties.*
3. *Appointment of Collectors, and their Powers and Duties.*

(a) So much of act as relates to duties on husbandry, horses, &c. repealed by 1 & 2 Geo. IV. c. 110.

(b) Certain duties repealed by 6 Geo. IV. c. 7. So much of 59 Geo. III. c. 13, as relates to duties on husbandry horses, &c. repealed by 1 & 2 Geo. IV. c. 110.

(c) Relates to compositions for taxes.

(d) Repeals duties on husbandry horses, and makes perpetual acts for reducing duties on horses and mules.

(e) Repeals 43 Geo. III. c. 99, s. 48; 48 Geo. III. c. 55, s. 7; 59 Geo. III. c. 51, s. 18; as to poundage to receiver-general, and regulates his appointment.

(f) Repeals certain duties under 48 Geo. III. c. 55; 50 Geo. III. c. 104; 52 Geo. III. c. 93; 58 Geo. III. c. 17; 59 Geo. III. c. 13; and extends ss. 1, 5, of 57 Geo. III. c. 25, and s. 4 of 5 Geo. IV. c. 44.

4. *Appointment of Inspectors and Surveyors, and their Powers and Duties.*
5. *Of Surcharges and Appeals.*
6. *Provisions respecting the Payment of Monies into the Hands of Collectors ; and when Parishes are answerable for Defaults ; and Proceedings thereon.*
7. *Of Payments and Accounts of Receivers-General, and of Allowances to them and Inspectors, &c.*
8. *General Provisions for enforcing and facilitating the Execution of this Act.*
9. *Recovery of Penalties, &c.*

The principal consolidating act, 43 Geo. 3, c. 99.

All duties now under the management of tax-office (except land-tax), shall be levied under regulations of this act.

Commencement of act as to such taxes, April 5, 1804;

and as to new duties, from the time of granting them.

The 43 Geo. III. c. 99, intituled, "An Act for Consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for Amending the same," after reciting, that "whereas it is expedient that certain of the provisions and powers contained in any acts in relation to the duties on windows or lights, on inhabited houses, on servants, carriages, horses, mules, and dogs, and other the duties lately transferred to the commissioners for the affairs of taxes, should be reduced into one act of Parliament, and amended in the particulars herein mentioned," enacts, "that all the said duties now under the management of the commissioners for the affairs of taxes (except the monies arising from the aid granted to his majesty by a land-tax, by an act passed in the thirty-eighth year of the reign of his present majesty), so far as the same relate to England, Wales, and Berwick-upon-Tweed, shall, from and after the time hereinafter mentioned for the commencement of this act, be assessed, raised, levied, and paid, under the regulations thereof."

Sect. 2. "That this act, with respect to the duties before mentioned, shall commence and take effect from and after the 5th day of April, 1804."

Sect. 3. "That this act, with respect to the said last-mentioned duties, shall be construed to take effect from and after the times respectively appointed by the act or acts granting such duties, for the commencement of the same."

1. Qualifications and Powers of Commissioners.

Commissioners shall be qualified as commissioners of land tax, under 38 Geo. 3, c. 48. (a)

vol 3 sum 505

Qualification in Wales.

Penalty on commissioners acting without oath or qualification, 200*l*.

Commissioners shall take oaths under 1 Geo. 1, c. 13.

Sect. 4. "That no person shall act as a commissioner in the execution of any act or acts before mentioned, unless such person shall be duly qualified as required by an act, passed in the thirty-eighth year of the reign of his present majesty, intituled, 'An Act to alter and amend so much of an Act, passed in this present Session of Parliament, intituled, An Act for granting an Aid to his Majesty by a Land-Tax to be raised in Great Britain, for the Service of the Year, 1798, as relates to the Qualification of Commissioners:' provided always, that in respect of the cities, liberties, and places hereinafter mentioned, the commissioners acting within the same for the duties before mentioned shall be qualified as by this act is directed: provided, also, that no qualification shall be required for any commissioner acting for the said duties before mentioned in any other county in Wales than is required for the commissioners acting in the counties of Wales, mentioned in the said last-recited act: provided also, that no person shall presume to act as such commissioner without taking the oaths herein mentioned; and if any person shall, from and after the time appointed for the commencement of the regulations of the said acts before mentioned, or any of them, presume to act as such commissioner, without having taken the oaths hereby prescribed in the manner required by this act, or without being qualified as before mentioned, he shall forfeit the sum of 200*l*."

Sect. 5. "That no person shall be capable of acting as a commissioner in the execution of any act or acts before mentioned, unless he shall have first taken the oaths appointed by the act, made in the first year of the reign of his late majesty King George the First, intituled, 'An Act for the further Securing of his Majesty's Person and Government, and the Succession of the Crown

(a) All justices of the peace, duly qualified, may act as commissioners of land-tax. See 45 Geo. III. c. 48.

I. The Act consolidating the Provisions regulating, &c.

701

in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales, and his open and secret Abettors."

43 Geo. 2. c. 90.

Sect. 6. "That every such commissioner, before he shall execute the office of such commissioner, except in administering the oath hereinafter mentioned to any other of the said commissioners, shall take, and is hereby required to take, the oath expressed in the schedule (marked A.) to this act annexed, which oath any one of the persons so appointed as commissioners is hereby authorized to administer, although the said person administering the same hath not himself previously taken the said oath, and which oath so taken shall be subscribed by the party taking the same, and the names of all the persons so subscribing shall forthwith be transmitted to the office of the commissioners for the affairs of taxes, at Somerset House, in the county of Middlesex, by the clerks of the commissioners respectively, wherever such oath shall be administered: provided always, that where any one or more of the persons so appointed commissioners acting for any district, shall have qualified himself or themselves to act, by taking the oaths mentioned in this act, and such one or more of them shall be present at any meeting of such commissioners in the same district, then, and in such case, the said oath shall not be administered to any other commissioner in the same district, but by a commissioner or commissioners present at such meeting, who shall have previously taken the said oath."

Commissioners, before acting, shall take the oath in schedule (A): (a) 1723 which shall be subscribed, and sent to the tax-office.

Commissioners having taken the oaths, shall administer it to the others.

Sect. 7. "That no person shall be capable of acting as such commissioner within the city of London, and liberty of Saint Martin-le-Grand, nor within the city and liberty of Westminster, nor in or for any other parish or place, any part whereof shall be situate within the bills of mortality, or the parishes of Saint Mary-le-Bone, or Saint Pancras, in the county of Middlesex, unless such person shall be possessed of lands, tenements, or personal estate, or of both together, to the amount or value of 5000*l.* at least, after the payment of all his debts, anything herein contained to the contrary notwithstanding; which qualification they shall swear to previous to their acting as aforesaid, according to the form following; that is to say,

Qualification of commissioners in London, Westminster, &c. 5000*l.*

"I, A. B., do swear [or, affirm, as the case may require], that truly and bona fide I have such an estate, consisting of [specifying the same], of the clear value of 5000*l.* over and above what will satisfy and discharge all my debts. So help me God."

Oath.

Nor unless he shall be an inhabitant of the district for which he shall act as a commissioner; and if any person shall presume to act as a commissioner in the execution of this act, or any of the powers herein contained, within the city of London and liberty of Saint Martin-le-Grand, or within the city and liberty of Westminster, or in or for any parish or place, any part whereof shall be situate within any other part of the bills of mortality, or in or for the parish of Saint Mary-le-Bone, or Saint Pancras, before he shall have taken such oath as herein is directed, or without being qualified as herein is required, or without being an inhabitant in the same district for which he shall act as a commissioner, he shall forfeit for every such offence the sum of 200*l.*; which oath shall be subscribed by the party taking the same, and their names transmitted to the office for taxes."

Commissioners must be inhabitants of the district.

Penalty on acting without being qualified, &c. 200*l.*

Sect. 8. "That in case of any controversy arising between such commissioners, in any matter or thing touching the execution of any act before mentioned, in which any commissioner or commissioners shall be interested in his or their own right, or concerned in the controversy in the right of any person for whom they shall act as steward, agent, attorney, or solicitor, the commissioner or commissioners so interested or concerned shall have no voice, but shall withdraw during the debate of such controversy, until it shall have been determined by the rest of the commissioners, on pain that every commissioner who shall so act in any matter or thing in which he or they is or are interested or concerned as aforesaid, shall forfeit and pay the sum of 50*l.*"

Commissioners interested shall have no voice in controversies.

Penalty, 50*l.*

(a) See forms, *post*.

2. Meetings of Commissioners, Appointment of Clerks and Assessors, and their Powers and Duties.

First meeting of commissioners shall be annually on or before April 10.

Two commissioners sufficient to act.

Election of clerk and assistants;

To remain for one year, removable only for just cause, and at a special meeting.

Commissioners shall issue precepts, and at the second meeting appoint and instruct assessors.

Assessors shall bring in assessments on oath; and shall charge all persons liable (penalty 20*l.* to 5*l.*) and return names of persons to be collectors.

Sect. 9. "That such commissioners as shall be duly qualified to act in the execution of the acts before mentioned, in order to the speedy execution thereof, shall, in the respective hundreds, laths, wapentakes, rapes, wards, or other districts, cities, boroughs, cinque-ports, towns, and places, in the several counties, ridings, and divisions, for which they are or shall be appointed to be commissioners, meet together yearly and every year, at the most usual or common place of meeting within such districts, cities, boroughs, cinque-ports, towns, and places respectively, on or before the 10th day of April yearly; (a) and any two or more of them shall hold such meeting or any other meeting of commissioners authorized by this act, or the acts before mentioned, and shall be competent to do any act, matter, or thing thereby required to be done by such commissioners; and such commissioners, or so many of them as shall be present at the first meeting to be holden in every year, or the major part of them, having qualified themselves by taking or having taken the oaths in manner herein directed, shall elect one fit and sufficient person to be their clerk, and one other fit and sufficient person, if the said commissioners shall deem it necessary, to be his assistant, for all the assessments to be made of the several duties with which the said commissioners shall be charged within their respective limits, for one year, and which person so elected shall, by virtue of such election, be the sole clerk to such commissioners for all the said assessments to be made by them for such year, and which clerk shall not be removeable from his said office during the year for which he shall be appointed as aforesaid, except for just cause, and at a meeting of the commissioners for that purpose duly summoned by notice in writing, signed by two or more of such commissioners, and left at the usual place of abode of each and every of the commissioners who shall have qualified as aforesaid, in and for such district, city, borough, cinque-port, town, or place, and by the major part of the commissioners present at such meeting; and such commissioners shall also, at such their first meeting, direct their several and joint precept or precepts to such inhabitants of each parish, ward, or place, and such number of them as they in their discretion shall think most convenient, to be presenters and assessors for such parish, ward, or place, requiring them to appear before the commissioners at such place and at such time, not exceeding ten days after the date of their precepts, as they shall appoint; and at such their appearances the commissioners, or so many of them as shall meet at such their second meeting, shall appoint such of the said inhabitants as they shall think proper to be the assessors for such parish or place of the several duties with which the said commissioners shall be charged as aforesaid, for one year; and at the same time shall openly read, or cause to be read unto them, the several duties for which they are to be appointed assessors, and openly declare the effect of their charge unto them, and how and in what manner they ought and should make their certificate and assessments of the said several duties; and shall then and there appoint another day, within the time hereinafter limited, for the said persons to appear before the said commissioners, and bring in their certificates of assessments of the said several duties in writing under their hands, which shall be verified upon their oaths or solemn affirmations, and not otherwise, which said assessors are hereby strictly enjoined and required, with all care and diligence, to charge and assess themselves, and all other persons chargeable with the said duties, so given to them in charge, and to make their assessments according to the provisions of the laws then in force, upon pain of forfeiture of any sum not exceeding 20*l.*, nor less than 5*l.*; and at the time and place so as aforesaid prefixed for their appearance, such assessors shall return the names of two or more able and sufficient persons, within the bounds or limits of those parishes or places for which they shall be assessors respectively, to the said commissioners, to be by them appointed collectors of the several duties to be raised and assessed by them as such commissioners."

(a) *See* *vide* 48 Geo. III. c. 141. No. 1, Rule 1, *post*, p. 735.

I. The Act consolidating the Provisions regulating, &c.

703

And see, *post*, sections 17 & 32.

Sec. 10. "That every person to be appointed such assessor, shall, before he shall take upon him the execution of the said employment, take the oaths mentioned and required to be taken by an act, made in the Parliament held in the first year of the reign of King William and Queen Mary, intituled, 'An Act for abrogating the Oaths of Allegiance and Supremacy, and appointing other Oaths;' or, being one of the people called Quakers, may make and subscribe the declaration of fidelity prescribed by an act, made in the first year of the reign of King William and Queen Mary, intituled 'An Act for exempting their Majesty's † Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws;' which oaths or affirmations any one or more of the commissioners by whom such assessors shall be appointed, who shall themselves have taken the oaths required by this act to be taken by commissioners, have hereby power and are hereby required to administer, as also all and every such other oaths or affirmations as are by this act, or any act or acts relating to duties to be assessed under the regulations of this act, required or allowed to be taken before such commissioners, by any officer or person whatever, in any matter or thing touching the execution of this act, or any act or acts granting the said duties as aforesaid."

Sec. 11. "That every person to be appointed such assessor, shall, and he is hereby required also to take the oath, or being one of the people called Quakers, to make and subscribe the solemn affirmation, before the commissioners for executing this act, in the form set forth in the schedule to this act annexed (marked B.); and if any person, to be appointed assessor as aforesaid, shall presume to act in the office or employment of an assessor, before he shall have taken the said oath or affirmation (as the case shall require), he shall forfeit and pay, for every such offence, the sum of 50*l*."

Sec. 12. "That in all cases the assessors so to be appointed as aforesaid, shall, from time to time, make and deliver in writing their certificates of assessments of all the duties given to them in charge as aforesaid, unto the respective commissioners, or any two or more of them, on or before the fifth day of June yearly, or as soon after as conveniently can be done; and the commissioners to whom such assessments shall be so delivered, or any two or more of them, shall forthwith set their hands to the said respective assessments, testifying their allowance of the same; and the said commissioners, or any two or more of them, are hereby required to sign and seal three duplicates of the said assessments, to be prepared by their clerk, and forthwith to nominate and appoint two of the persons named or presented in each of such assessments to be *collectors*, or any other two such persons as such commissioners are hereby authorized to appoint, for the respective divisions and places for which collectors shall be so presented, (a) and to deliver, or cause to be delivered, one of the said *duplicates* of such assessments so by the said commissioners allowed, *together with warrants under the hands and seals of two or more of the said commissioners for collecting the same, unto the respective persons by them nominated to be collectors*; and one other of the said duplicates to the surveyor of the district for the time being; and the third of the said duplicates to be kept by such clerk for the use of the said commissioners: and the said collectors are hereby enjoined and required to make demand of the several sums contained in such duplicates, from the parties charged therewith, or at the places of their last abode, or on the premises charged with the assessment, as the case may require, *within ten days after the said duties shall respectively become payable, next after such assessments shall have been delivered to them*; and, upon payment thereof, to give *acquittances under their hands* (without taking anything for such acquittances, the stamp duty for the same excepted), (b) unto the se-

43 Geo. 3, c. 50.

Assessors shall take oaths, &c. under 1 W. & M. sess. 1, c. 8, or c. 18.

† *Sic* in act.

Commissioners may administer oaths under this act.

Before acting, assessors shall also take oath in schedule (B.)

Penalty, 50*l*.

Assessors shall annually deliver assessments on or before June 5.

Commissioners shall sign the assessment, and three duplicates thereof, and deliver one to the assessors, with warrants for collecting the same; and another to the surveyor.

Collectors shall demand duties within ten days after due, and give acquittances.

(a) The insertion of the name of a person as collector of the assessed taxes, in the warrants of the commissioners, is not a sufficient appointment to that office. *R. v. Radley, Forrest*, 150.

(b) A collector of taxes exacting a duty, in respect of which there had been no charge at all in the assessment upon the person from whom the payment was exacted, is not liable to the

43 Geo. 3, c. 99.

veral persons who shall pay the same; and that such acquittances shall be full and perfect discharges to every such person who shall pay the same, against his majesty, his heirs and successors."

See sect. 12, as to the appointment of collectors. And see, further, sections 30, 31, 18, 16, 46, 47, *post*; and 45 Geo. III. c. 71, s. 2, *post*; and 48 Geo. III. c. 55, s. 7, *post*.

3. Appointment of Collectors, their Powers and Duties.

How collectors shall give security. (a)

Sect. 13. "That such persons as shall be presented to the said commissioners as before directed to be collectors, shall, if required so to do, give good and sufficient security to any two or more of such commissioners equal to the amount of the whole duty, and sum and sums of money assessed in, and to be collected in each district or place as aforesaid, by such collectors respectively, for their duly paying such monies assessed as aforesaid, as shall come to their hands, and for their duly demanding the sums assessed of the respective persons from whom the same are payable; and in case of nonpayment thereof, their duly enforcing the powers of this act against such who make default; which security the said commissioners, or any two or more of them, are hereby authorized and empowered to take, by a joint and several bond, *with two sureties at the least*, (b) to and in the names of any two or more of such commissioners, in

penalties under the 43 Geo. III. c. 99, s. 12. *Lister* q. t. v. *Priestley*, *Wightw.* 405.

The 23 Geo. III. c. 90, s. 4, for paving and lighting the parish of St. Martin, which prohibits, under a penalty, any person, during the time *he shall be collector of any tax*, or hold any office or profit, or be interested in any contract or work to be done in the execution of that act, from acting as a committee-man under the act, does not extend to a collector of the assessed taxes. *Lee v. Birreld*, 1 M. & S. 482.

In a *qui tam* action against a collector of taxes, it is not necessary to give in evidence his warrant; proof that he has acted as collector is sufficient. *Lister* q. t. v. *Priestley*, *Wightw.* 67.

(a) By 48 Geo. III. c. 55, every collector is to have 3d. in the pound for money paid by him in due time, except duties in schedule L., &c.

(b) But a bond with one surety only is valid. See *Peppin v. Cooper*, 2 B. & A. 431. In the same case, it was held, that the due collection of the rates for one year was a compliance with the condition of the bond, under the particular terms of such bond. And although it appeared, from the condition of the bond, that H. A. and G. P. were both appointed collectors, it was held that such bond, being for the due collection by H. A. only, might be put in suit against the surety, without first selling the goods of G. P.

A joint collector of taxes is liable for any deficiency in the collection for the

year, in the amount received by his coadjutor, although he has not himself collected *during the time*, and *although his appointment may not have been quite formal*, if he has in any manner acknowledged his appointment, or acted or received a share of the poundage at any time. And the court will set *insuper* on him, although a re-assessment has been made on the parish, and the amount of the deficiency collected, and paid over to the receiver-general. And if he should have procured a rule to be made absolute for discharging a former *insuper*, and for the restoration of the money levied under it by *distringas*, *without having served the order nisi on the parish*, the court discharging such a rule, will do so, *with costs*. In the matter of *insupers* set upon John Bromley and William Baylies, joint collectors of taxes for the parish of Welford, 5 Price, 5.

See, also, *In re Moorty*, 5 Price, 5.

It was held, if there be two collectors of taxes appointed under the 43 Geo. III. c. 99, s. 13, for a single parish, by the commissioners, one for one division of the parish, called the upper parish, and one for another, called the lower parish, and they accordingly collect the taxes separately from the several inhabitants of their respective divisions: in case of a deficiency in the amount of the taxes collected, through the misconduct of either, the whole parish must be re-assessed, and not the particular district, the collector of which has misapplied the money, and from the collection of whose taxes the deficiency arises, although the taxes of the other division

such penal sum as aforesaid, and with a condition thereto to the effect before mentioned; and on failure of the persons so first named or appointed to be collectors giving such security, if required, the said commissioners, or any two or more of them, shall be at liberty and are hereby authorized to appoint any other sufficient persons, who can give such security as aforesaid, residing within the limit of the same district or place, to be collectors of the said duties respectively; and every such bond given by way of such security, as aforesaid, shall be prosecuted by such commissioners on any failure or default of the said collector or collectors: provided always, *that no such bond shall be put in suit against any surety or sureties for any deficiency other than what shall remain unsatisfied after sale of the lands, tenements, goods, and chattels of such collector or collectors, in pursuance and by virtue of the directions and powers given to the respective commissioners by this act:* provided also, that such bond shall not be subject to any stamp duty whatever: provided always, that if no persons can be found within the limits of such districts or places respectively, who are willing or able to give such security, then and in such case the persons who were first presented to the respective commissioners, as before directed, shall be collectors of the monies assessed as aforesaid, within the limits of such districts or places respectively."

43 Geo. 3, c. 80.

Sic in act.



Churchwardens, &c. or inhabitants of parishes, may require security to be taken from collectors, and name persons willing to give such security.

In which case no collectors shall be appointed until security be given.

Within the bills of mortality, St. Mary-le-Bone, and Pancras, the appointment of collectors to belong to the resident commissioners.

Where two or more commissioners shall not be resident, the commissioners of the adjacent parish, &c. may appoint or concur in the appointment of collectors.

Sect. 14. "That if any two or more of the inhabitants of the district or place for which a collector or collectors may be named as aforesaid, being respectively charged to any of the said duties to be assessed under the regulations of this act, or the churchwardens or overseers, or guardians of the poor of any description, or any two or more of them, or the select vestry, or any seven or more of them, where a select vestry shall be authorized to act for any parish or place, shall require security to be taken of the collector or collectors to be appointed for the parish or place on behalf of which such application shall be made, and shall name a fit and proper person or persons to be a collector or collectors who respectively are willing to give such security, it shall not be lawful for such commissioners to appoint collectors for such duties, or any of them, until such security be given; and if the person or persons returned to the said commissioners, according to this act, to be a collector or collectors, shall not have given, or shall not give such security, then it shall be lawful for such commissioners to appoint such persons, and no others, who shall have been named to them by the persons respectively before mentioned, as fit and proper persons to be collectors, and who will give such security as shall be required."

Sect. 15. "That within the bills of mortality, the parishes of St. Mary-le-Bone and St. Pancras, in the county of Middlesex, the appointment of the collectors of such duties as aforesaid shall belong wholly to such of the commissioners for executing this act, who shall reside in the wards or parishes for which such collectors respectively are to be appointed, in case there shall be two or more commissioners there resident, and no other commissioner shall in such case interfere; and it shall be lawful for such commissioners residing within the respective wards or parishes aforesaid, to appoint two or more persons to be collectors, who shall have given such security as aforesaid, whether such persons shall have been presented by the assessors as aforesaid, or named by the inhabitants, or churchwardens and overseers, or guardians of the poor, or any two or more of them, or any seven or more of the vestry, where a select vestry shall be appointed as aforesaid, and who shall be thought by such commissioners to be of ability to execute the office of collector; and that in default of presenting or naming such persons who shall be willing to give such security, then the said commissioners residing as aforesaid shall name such persons as they shall think of ability to execute the said office: provided always, that where two or more commissioners shall not be resident in any such ward

have been collected, and paid over to the receiver-general. *Ex-parte Heullan, 7 Price, 594.* But in *Barrs v. Digby, 1 New Rep. 281*, it was held, that where a constablenick consisted of several hamlets, and two collectors of the duties on houses, &c., were appointed

for each hamlet, if the collector or collectors of any one hamlet failed in duly paying over the money collected, the particular hamlet only where the collector or collectors have failed is liable to a re-assessment, under 20 Geo. II. c. 3, and not the whole constablenick.

43 Geo. 3, c. 90.

Collectors shall also act as assessors.

Assessors or collectors refusing to take the office, or neglecting their duty, may be fined by commissioners, not exceeding 20*l*. Inhabitants of cities, boroughs, &c. not compelled to be assessors or collectors out of the limits of such places.

In privileged and extra parochial places, and where two sufficient inhabitants cannot be found, the commissioners to appoint assessors,

and collectors in like manner.

If assessors neglect their duty, surveyors may perform the same.

Officers executing this act, or other acts herein mentioned, not liable to any other penalties than such as are contained therein.

Inspectors and surveyors acting in execution of acts now in force, to be inspectors and surveyors under this act.

His majesty or the treasury may from time to time appoint officers for the survey and inspection of

or parish as aforesaid, for which collectors are to be appointed, then a commissioner or commissioners residing in any adjacent ward or parish in the same county or city, may appoint or concur with a commissioner so residing, in the appointment of such collectors; and every person appointed a collector in pursuance of this act, shall also, by virtue of such appointment, act as an assessor for the same parish, ward, or place."

Sect. 16. "That if any assessor or collector to be appointed as aforesaid, shall wilfully neglect or refuse to take upon himself the office of an assessor or collector, to which he shall be appointed, or shall wilfully neglect or refuse to perform his duty in the due and speedy execution of this act, or of any act or acts granting duties to be assessed under the regulations of this act, for which he shall be appointed an assessor or collector, such commissioners, or any two or more of them, may and shall, by virtue of this act, impose on such person or persons so refusing or neglecting, for every such offence, a fine not exceeding 20*l*.: provided, that no person inhabiting any city, borough, or town corporate, shall be compelled to be an assessor or collector for any part of such duties, in any place or places out of the limits of the city, borough, or town corporate, in which he shall so inhabit."

Sect. 17. "That in all privileged and other places being extra-parochial, and not within the constablewicks or precincts of the respective assessors to be appointed as aforesaid, and in all parishes and places where two able and sufficient inhabitants cannot be found, the said commissioners, or any two or more of them, shall and they are hereby required to nominate and appoint two fit persons, living in or near the said privileged or other places as aforesaid, to be assessors for the said places, and to make and return their said assessments in like manner as by this act is directed, in any parish or place, and also in like manner and in the like cases to appoint one or more collector or collectors, who are hereby required to collect and pay the sums given to them in charge, according to the rules prescribed by this act, for collecting and paying the sums of money assessed in any parish or place."

And see *post*, sects. 32 and 33.

Sect. 18. "That in case such commissioners shall neglect to appoint assessors as directed by this act, or in case the assessors by them appointed shall neglect to perform what shall be lawfully required of them, that then and in every such case it shall be lawful to and for the surveyor or surveyors appointed or to be appointed as herein mentioned, to do and perform such and the like services as ought to be done by such assessors, until such assessors shall be appointed, and shall act with effect."

Sect. 19. "That no commissioner, assessor, or collector, who shall be employed in the execution of any such act or acts herein mentioned, or of this act, shall be liable, for or by reason of such execution, to any penalty or penalties, other than such as by this act, or the said act or acts, are or may be inflicted."

See, further sections 27, 32, 33 to 47, *post*, 707-8.

See further, as to *Collectors*, 3 Geo. IV. c. 88, *post*, 728-9, 730; and 48 Geo. III. c. 141, *post*, 736, &c.

4. *Inspectors and Surveyors, and their Powers and Duties.*

Sect. 20. "That the several persons who, as inspectors or surveyors, are or may be authorized to act in the execution of any act or acts in force at the time of passing this act, shall also be the inspectors and surveyors to act in the execution of this act, and of the said act or acts for granting duties to be assessed under the regulations of this act, whether such persons be appointed by the name of inspectors, expectant inspectors, or surveyors, either for any particular district, or for vacant districts, or otherwise, by whatever name they shall have been or shall be appointed; and it shall be lawful to and for his majesty, his heirs and successors, or the lords commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, from time to time, to constitute and appoint such person or persons as his majesty, his heirs and successors, or the said commissioners of the treasury, or the high treasurer, for the time being, shall think proper, to be the officers for the survey and inspection of the duties under the management of the commissioners for the affairs of taxes, within that part of Great Britain as

aforesaid, and for doing and executing all things belonging to the office of inspector or surveyor, according to the powers vested in them by this act, or by any other act or acts for granting the said duties to be assessed under the regulations of this act, or any of them."

43 Geo. 3. c. 99.
duties under commissioners of taxes.

Sect. 21. "That every such surveyor or surveyors, inspector or inspectors, shall [twice in every year, to wit, between the first day of July and the tenth day of August following, and between the first day of December and the tenth day of January following, yearly, and at no other time (a),] certify in writing to two or more of the said commissioners all such surcharges as they may lawfully make, and shall give or cause to be given to every person so surcharged, or leave or cause to be left at his or her last or usual place of abode in the district where such surcharge shall be made, notice in writing of such surcharge, and of the amount for which he or she shall have been charged by virtue of such certificate."

Surveyors certify surcharges twice in the year.

Notice thereof to be given to the party surcharged.

Sect. 22. "That if any surveyor or surveyors, inspector or inspectors, shall omit to make a surcharge on or before the first day of August in any year, it shall be lawful for the said surveyor or surveyors, inspector or inspectors, to make such surcharge or surcharges on or before the first day of January following, for the whole year."

Surcharges omitted the first half-year, may be made for the whole year.

Sect. 23. "That if any such surveyor or inspector shall knowingly or wilfully, through favour, underrate or omit to charge any person or persons, or shall be guilty of any corrupt, vexatious, and illegal practices in the execution of his office, such surveyor or inspector shall, for every such offence, forfeit the sum of 100*l.*, and on conviction shall be discharged from his said employment."

Surveyor guilty of vexatious or corrupt practices in his office, to forfeit 100*l.*, and on conviction be dismissed.

Of Appeals, &c.

Sect. 24. "That if any person or persons shall think himself, herself, or themselves respectively overcharged or overrated by any assessment or surcharge to be made by virtue or in pursuance of any act or acts before mentioned, it shall be lawful for him, her, or them respectively, to appeal to the commissioners for putting in execution the said act or acts in relation to such assessment, on giving at the least ten days' notice thereof to the said surveyor or inspector, or to one or more of the assessors of the place wherein such assessment or surcharge shall be made, of such intention to appeal; and the said commissioners, or any two or more of them, shall and they are hereby required to hear and determine all such appeals, except where it shall appear to the said commissioners that the person appealing shall have omitted to give such notice thereof to the proper officer aforesaid, in which case it shall be lawful for the said commissioners, and they are hereby required, to dismiss the appeal, and to confirm the assessment or surcharge appealed against."

Persons over-charged may appeal to the commissioners (b) on giving ten days' notice to the surveyor or assessor. (c).

Commissioners to hear appeals, unless notice has not been given, in which case the assessment or surcharges must be confirmed.

Sect. 25. "That no assessment which shall be delivered to such commissioners, or any two or more of them, by any such assessor or assessors, shall be altered by them, or any of them, before the time for hearing and determining appeals, and then only upon a surcharge or surcharges not appealed against, and according to such surcharge or surcharges, or upon the commissioners hearing the matter of appeal particularly relating thereto, upon a general appeal-day duly appointed, save and except in such cases only where such commissioners are specially authorized to alter or rectify any such assessment by the act or acts before mentioned; and if any clerk to such commissioners, or any other person or persons, shall alter, or cause or procure or suffer to be altered, any assessment, after the same shall have been allowed by such commissioners, except as aforesaid, or in cases of appeal, and by order of the said commis-

Assessments not to be altered before the time for hearing appeals, except in cases authorized by the act or rectified acts.

Clerks or other persons altering the assessments improperly to forfeit 50*l.*

(a) But now, by 48 Geo. III. c. 141, No. IV. Rule 1, *post*, "on or before the 15th December in each year of assessment."

(b) The Court of Exchequer will not, upon motion, enter into any question of rateability to the assessed taxes. *R. v. Navy (Commissioners)*, 3 *Anst.* 858.

(c) By the 48 Geo. III. c. 141, No. III.

Rule 6, all appeals against the first assessment in every year shall be heard and determined between the 20th of August and 10th of September following. By the same act, No. IV. Rule 2, all appeals against surcharges shall be heard and determined between the 20th of January and 20th February following.

43 Geo. 3, c. 69.

Collectors shall also act as assessors.

Assessors or collectors refusing to take the office, or neglecting their duty, may be fined by commissioners, not exceeding 20*l*. Inhabitants of cities, boroughs, &c. not compelled to be assessors or collectors out of the limits of such places.

In privileged and extra-parochial places, and where two sufficient inhabitants cannot be found, the commissioners to appoint assessors,

and collectors in like manner.

If assessors neglect their duty, surveyors may perform the same.

Officers executing this act, or other acts herein mentioned, not liable to any other penalties than such as are contained therein.

Inspectors and surveyors acting in execution of acts now in force, to be inspectors and surveyors under this act.

His majesty or the treasury may from time to time appoint officers for the survey and inspection of

or parish as aforesaid, for which collectors are to be appointed, then a commissioner or commissioners residing in any adjacent ward or parish in the same county or city, may appoint or concur with a commissioner so residing, in the appointment of such collectors; and every person appointed a collector in pursuance of this act, shall also, by virtue of such appointment, act as an assessor for the same parish, ward, or place."

Sect. 16. "That if any assessor or collector to be appointed as aforesaid, shall wilfully neglect or refuse to take upon himself the office of an assessor or collector, to which he shall be appointed, or shall wilfully neglect or refuse to perform his duty in the due and speedy execution of this act, or of any act or acts granting duties to be assessed under the regulations of this act, for which he shall be appointed an assessor or collector, such commissioners, or any two or more of them, may and shall, by virtue of this act, impose on such person or persons so refusing or neglecting, for every such offence, a fine not exceeding 20*l*: provided, that no person inhabiting any city, borough, or town corporate, shall be compelled to be an assessor or collector for any part of such duties, in any place or places out of the limits of the city, borough, or town corporate, in which he shall so inhabit."

Sect. 17. "That in all privileged and other places being extra-parochial, and not within the constablewicks or precincts of the respective assessors to be appointed as aforesaid, and in all parishes and places where two able and sufficient inhabitants cannot be found, the said commissioners, or any two or more of them, shall and they are hereby required to nominate and appoint two fit persons, living in or near the said privileged or other places as aforesaid, to be assessors for the said places, and to make and return their said assessments in like manner as by this act is directed, in any parish or place, and also in like manner and in the like cases to appoint one or more collector or collectors, who are hereby required to collect and pay the sums given to them in charge, according to the rules prescribed by this act, for collecting and paying the sums of money assessed in any parish or place."

And see *post*, sects. 32 and 33.

Sect. 18. "That in case such commissioners shall neglect to appoint assessors as directed by this act, or in case the assessors by them appointed shall neglect to perform what shall be lawfully required of them, that then and in every such case it shall be lawful to and for the surveyor or surveyors appointed or to be appointed as herein mentioned, to do and perform such and the like services as ought to be done by such assessors, until such assessors shall be appointed, and shall act with effect."

Sect. 19. "That no commissioner, assessor, or collector, who shall be employed in the execution of any such act or acts herein mentioned, or of this act, shall be liable, for or by reason of such execution, to any penalty or penalties, other than such as by this act, or the said act or acts, are or may be inflicted."

See, further sections 27, 32, 33 to 47, *post*, 707-8.

See further, as to *Collectors*, 3 Geo. IV. c. 88, *post*, 728-9, 730; and 48 Geo. III. c. 141, *post*, 736, &c.

4. *Inspectors and Surveyors, and their Powers and Duties.*

Sect. 20. "That the several persons who, as inspectors or surveyors, are or may be authorized to act in the execution of any act or acts in force at the time of passing this act, shall also be the inspectors and surveyors to act in the execution of this act, and of the said act or acts for granting duties to be assessed under the regulations of this act, whether such persons be appointed by the name of inspectors, expectant inspectors, or surveyors, either for any particular district, or for vacant districts, or otherwise, by whatever name they shall have been or shall be appointed; and it shall be lawful to and for his majesty, his heirs and successors, or the lords commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, from time to time, to constitute and appoint such person or persons as his majesty, his heirs and successors, or the said commissioners of the treasury, or the high treasurer, for the time being, shall think proper, to be the officers for the survey and inspection of the duties under the management of the commissioners for the affairs of taxes, within that part of Great Britain as

aforsaid, and for doing and executing all things belonging to the office of inspector or surveyor, according to the powers vested in them by this act, or by any other act or acts for granting the said duties to be assessed under the regulations of this act, or any of them."

43 Geo. 3. c. 99.
duties under commissioners of taxes.

Sect. 21. "That every such surveyor or surveyors, inspector or inspectors, shall [twice in every year, to wit, between the first day of July and the tenth day of August following, and between the first day of December and the tenth day of January following, yearly, and at no other time (a),] certify in writing to two or more of the said commissioners all such surcharges as they may lawfully make, and shall give or cause to be given to every person so surcharged, or leave or cause to be left at his or her last or usual place of abode in the district where such surcharge shall be made, notice in writing of such surcharge, and of the amount for which he or she shall have been charged by virtue of such certificate."

Surveyors certify surcharges twice in the year.

Notice thereof to be given to the party surcharged.

Sect. 22. "That if any surveyor or surveyors, inspector or inspectors, shall omit to make a surcharge on or before the first day of August in any year, it shall be lawful for the said surveyor or surveyors, inspector or inspectors, to make such surcharge or surcharges on or before the first day of January following, for the whole year."

Surcharges omitted the first half-year, may be made for the whole year.

Sect. 23. "That if any such surveyor or inspector shall knowingly or wilfully, through favour, underrate or omit to charge any person or persons, or shall be guilty of any corrupt, vexatious, and illegal practices in the execution of his office, such surveyor or inspector shall, for every such offence, forfeit the sum of 100*l.*, and on conviction shall be discharged from his said employment."

Surveyor guilty of vexatious or corrupt practices in his office, to forfeit 100*l.*, and on conviction be dismissed.

Of Appeals, &c.

Sect. 24. "That if any person or persons shall think himself, herself, or themselves respectively overcharged or overrated by any assessment or surcharge to be made by virtue of or in pursuance of any act or acts before mentioned, it shall be lawful for him, her, or them respectively, to appeal to the commissioners for putting in execution the said act or acts in relation to such assessment or surcharge shall be made, of such intention to appeal; and the said commissioners, or any two or more of them, shall and they are hereby required to hear and determine all such appeals, except where it shall appear to the said commissioners that the person appealing shall have omitted to give such notice thereof to the proper officer aforsaid, in which case it shall be lawful for the said commissioners, and they are hereby required, to dismiss the appeal, and to confirm the assessment or surcharge appealed against."

Persons overcharged may appeal to the commissioners (b) on giving ten days' notice to the surveyor or assessor. (c).

Commissioners to hear appeals, unless notice has not been given, in which case the assessment or surcharges must be confirmed.

Sect. 25. "That no assessment which shall be delivered to such commissioners, or any two or more of them, by any such assessor or assessors, shall be altered by them, or any of them, before the time for hearing and determining appeals, and then only upon a surcharge or surcharges not appealed against, and according to such surcharge or surcharges, or upon the commissioners hearing the matter of appeal particularly relating thereto, upon a general appeal-day duly appointed, save and except in such cases only where such commissioners are specially authorized to alter or rectify any such assessment by the act or acts before mentioned; and if any clerk to such commissioners, or any other person or persons, shall alter, or cause or procure or suffer to be altered, any assessment, after the same shall have been allowed by such commissioners, except as aforsaid, or in cases of appeal, and by order of the said commis-

Assessments not to be altered before the time for hearing appeals, except in cases authorized by the act or rectified acts.

Clerks or other persons altering the assessments improperly to forfeit 50*l.*

(a) But now, by 48 Geo. III. c. 141, No. IV. Rule 1, *post*, "on or before the 15th December in each year of assessment."

(b) The Court of Exchequer will not, upon motion, enter into any question of rateability to the assessed taxes. *R. v. Navy (Commissioners)*, 3 *Anst.* 858.

(c) By the 48 Geo. III. c. 141, No. III.

Rule 6, all appeals against the first assessment in every year shall be heard and determined between the 20th of August and 10th of September following. By the same act, No. IV. Rule 2, all appeals against surcharges shall be heard and determined between the 20th of January and 20th February following.

43 Geo. 3, c. 60.

Commissioners, on hearing appeals, not to make abatement unless the party is overrated, and produces a list of particulars as required by the acts verified on oath.

Surveyor and inspector may attend in support of the assessment or surcharge, and produce evidence if they think proper, &c.

If commissioners shall find upon appeal that the persons is not fully assessed or surcharged, they may charge the amount omitted.

No barrister or solicitor allowed to plead before commissioners.

Commissioners to give notice to collectors of times and places for hearing appeals.

Collectors within ten days to cause public notice to be given thereof in church,

and fix notice in writing on church doors.

Appeals, of which notice is given, to be heard and determined within certain periods.
(a)

Determination of the commission-

sioners, or any two or more of them, made after appeal as aforesaid, every such clerk or other person shall forfeit and pay the sum of 50*l*."

Sect. 26. "That the said commissioners, or any of them, shall not, upon the hearing any such appeal, make an abatement or defalcation in the charge made upon any person by assessment, or by the surcharge of any assessor or assessors, surveyor or surveyors, inspector or inspectors, as aforesaid, but the charge or surcharge shall stand good and remain part of the annual assessment, unless it shall, upon the hearing of such appeal, appear to the commissioners then present, or the major part of them, by examination of the appellant upon oath or affirmation, or by other lawful evidence to be produced by him or her, that such person is overrated in or by any such assessment or surcharge, and unless the appellant shall produce before the said commissioners a true, perfect, and complete list, account, declaration, or return, as shall or may be required by the act or acts before mentioned, and verify the same upon his or her oath or affirmation, and such surveyor or inspector and assessor may then and there attend to give his or their reasons in support of the said assessment or surcharge, and may, if he or they think proper, produce any lawful evidence in support of the same; and such surveyor, inspector, and assessor, shall have full power and free liberty to be present during all the time of hearing such respective appeals, and of the said commissioners determining the same: provided always, if upon such appeal it shall appear to the said commissioners that the persons so assessed or surcharged, is or ought to be charged to any amount beyond the amount contained in such assessment or surcharge, it shall be lawful for the said commissioners to charge such person to the matter or thing, or amount of the sum omitted, in like manner and at the like rate as they might have done, if a full, true, and perfect assessment had been made in the first instance: provided also, that no barrister, solicitor, or attorney, or any person practising the law, shall be allowed to plead before the said commissioners on such appeal for the appellant or officers, either *visa voce* or by writing."

Sect. 27. "That such commissioners, or any two or more of them, shall and they are hereby required to give such collectors as aforesaid notice at what time or times, within the periods herein limited, and at what place or places, the appeals of any person or persons who shall think themselves aggrieved as aforesaid, may be heard and determined; and every such collector is also hereby required, within ten days after such notice from the said commissioners, to cause public notice to be given in every parish church or chapel of ease belonging to any such parish within his district or division, immediately after divine service on the Lord's Day (if divine service shall be performed in the said parish within that time), or otherwise in the church of the next adjoining parish, of the time and place so appointed by such commissioners for hearing and determining appeals as aforesaid, and shall also cause the like notice to be fixed in writing upon the door of each of the said respective parish churches or chapels of ease, that all persons who shall think themselves aggrieved as aforesaid, may know when and where to make their appeal to the said commissioners."

Sect. 28. "That all such appeals as shall be made to such commissioners, and of which notice shall have been given to the assessor, surveyor, or inspector, as aforesaid, between the first day of July and the twentieth day of August, yearly, shall be heard and determined by the said commissioners upon such days as shall by them be appointed for the hearing of such appeals, between the twentieth day of August and the twentieth day of September following; and that all such other appeals as shall be made to the said commissioners, and of which like notice shall have been given between the first day of December and the twentieth day of January following, yearly, shall be heard and determined by such commissioners upon such other days as shall be appointed by them for the hearing thereof, between the twentieth day of January and the tenth day of February following, yearly; and no appeal shall be allowed, heard, or determined, which shall not be made at the times and in manner before directed."

Sect. 29. "That all such appeals once heard and determined by the said commissioners, or any two or more of them, or the major part of them present on the day or days by them appointed for hearing of appeals, shall be final:

and neither the determination of the commissioners, nor the assessment then and there made thereupon, shall be altered on any pretence whatever at any subsequent meeting, or at any other time or place, except always in such cases where the opinion of the judges shall be required according to the provisions of any act or acts concerning the same." (a)

Sect. 30. "And whereas it may happen that the assessments and duplicates of the said duties may not be signed and allowed in due time, to the prejudice of the said revenue, for want of a sufficient number of commissioners acting or attending where and when such assessments or duplicates ought to be allowed; be it further enacted, that in all cases it shall be lawful for the said commissioners appointed for putting any act or acts relating to the said duties in execution, living in any parish or place within the same county, riding, or division, and they are hereby empowered and required, to allow and sign such assessments or duplicates which are or shall be wanting for any such parishes or places as aforesaid."

Sect. 31. "That if at any time there shall not have been any meeting or meetings of two or more of the said commissioners, and a due execution of any of the powers created by this act, or the act or acts before mentioned, within or at the time or times, or according to the manner or circumstances directed or prescribed in and by this act, or the said act or acts, it shall be lawful to and for any two or more of the persons appointed commissioners, and they are hereby required, in all and every the respective counties, ridings, cities, boroughs, cinque-ports, and towns respectively, in that part of Great Britain as aforesaid, wherein such default shall have happened, to meet and execute the said powers at any other time or times, anything herein contained to the contrary thereof notwithstanding; and they are hereby authorized and required forthwith, or as soon as may be after the time or times at which such meetings should have been held, and such powers should have been executed, to meet and execute the same, and cause the same to be executed, so as that all the duties by law payable on assessment be duly and effectually charged, raised, levied, collected, and paid to his majesty, his heirs and successors; and all such meetings and acts of the said commissioners, or any two or more of them, shall be deemed and are hereby declared to be good and valid, to all intents and purposes, notwithstanding any such omission or defect."

Sect. 32. "That if, in any parish, ward, or place, in that part of Great Britain as aforesaid, any failure shall happen in the appointment of the assessor or assessors, or collector or collectors, whereby the assessments or collection of the duties is likely to be delayed, it shall be lawful for any two justices of the peace of any county in that part of Great Britain as aforesaid, the ridings of York, or divisions of Lincoln, whenever such failure shall happen in any parish, ward, or place within such county, riding, or division, or in any town or place adjoining thereto, such town or place not being a county of itself herein mentioned, and for the chief magistrate and justices of the peace of any city, town, or place, being a county of itself, and they and every of them, on notice of such default to be given by the surveyor, are strictly enjoined and required to appoint an assessor or assessors, or a collector or collectors, as the case may require, observing therein the rules and regulations prescribed by this act for the appointment of such respective officers by commissioners; and if any person appointed by the justices or magistrates as aforesaid, to be an assessor or collector, shall wilfully neglect or refuse to take upon himself the office of an assessor or collector, or shall wilfully neglect or refuse to perform his duty in the speedy and faithful execution of his office; or if any person so appointed to be an assessor shall neglect or refuse to take the oath or affirmation directed to be taken by assessors by this act, as the case may require, every such person so offending shall forfeit and pay the sum of 50*l.*"

43 Geo. 3, c. 99.

ers on appeals to be final, and neither the determination nor the assessment made thereupon can be altered at any subsequent meeting, except where cases are required for the judges' opinion.

If assessments and duplicates are not signed in due time, commissioners in the same county may allow the same.

When commissioners do not meet within the time prescribed by this act, they may meet at other times, and execute any of the powers therein contained.

Where assessors or collectors are not appointed, two justices of the peace in any county or the chief magistrate and justices in any city, &c., may appoint them. (a)

Persons so appointed assessors or collectors refusing to perform the duty, or to take the oath required, shall forfeit 50*l.*

(a) The commissioners were ordered by the Court of Exchequer to state and sign a case for the appellants, for the opinion of a judge, where a question arose respecting certain increase of duty made by a surveyor on the appel-

lants. *In re Yarmouth (Commissioners)*, 9 Price, 149.

(b) In 43 Geo. 3, c. 141, s. 1, rule 1, where assessors are to be appointed before 1st April, annually, see *post*.

43 Geo. 3, c. 99.

Collectors, on payment of the duties being refused, to distress;

and keep the distress so taken four days, and if the duties are not then paid, to sell the same.

Collectors in the day-time may break open houses, having a warrant from the commissioners for that purpose, and taking a constable with them.

When sufficient distress cannot be found, the party may be committed to prison.

Question or difference respecting distress to be determined by the commissioners. (b)

Commissioner may act for any part of the county

Of Distraint, &c., for Arrears of Taxes.

Sect. 33. "That if any person or persons shall *refuse* to pay the several sum and sums charged upon him, her, or them, by any act or acts granting the duties herein mentioned, or any other duties to be assessed under the regulations of this act, upon demand (a) made by the collector or collectors of the division or place, according to the precepts or estreats to him or them delivered by such commissioners, it shall be lawful to and for such collector and collectors, or any of them, who are hereby respectively thereunto authorized and required, for non-payment thereof, to *distrain upon the messuages, lands, tenements, and premises, charged with any sum or sums of money*, (b) or to distrain the person or persons so charged, by his or their goods and chattels, (b) and all such other goods and chattels as they are *hereby* authorized to distrain, (b) without any further authority from the commissioners for that purpose than the warrant to such collector or collectors, delivered at the time of his or their appointment, and the distress so taken to keep by the space of four days, at the costs and charges of the party so refusing; and if the said party doth not pay the respective sums of money so due within the said four days, then the said distress to be appraised by two or more of the inhabitants where the said distress is taken, or other sufficient persons, and there to be sold by the said officer for payment of the said money, and the overplus coming by the said distress (if any there be), after deducting the said money, and also the costs and charges of taking, keeping, and selling the said distress, which costs and charges the said officer is hereby authorized to retain, to be restored to the owner thereof; and, moreover, it shall be lawful, in such case, to break open in the day-time any house, upon warrant under the hands and seals of two or more of the said commissioners, obtained for that purpose, calling to their assistance the constable, tithingman, or headborough, within the counties, shires, stewarties, cities, towns, and places, where any refusal, neglect, or resistance shall be made, which said officers are hereby required to be aiding and assisting in the premises, as they will answer the contrary at their peril; and if any person or persons appointed to pay any of the duties charged by any act or acts, as aforesaid, shall refuse or neglect to pay the said sum or sums so appointed to be paid, by the space of ten days after demand, as aforesaid, where no sufficient distress can or may be found whereby the same may be levied, then, and in every such case, two or more of such commissioners are hereby authorized, by warrant under their hands and seals, to commit such persons to the common gaol, there to be kept, without bail or mainprize, until payment shall be made; and, if any question or difference shall arise upon taking such distress, the same shall be determined and ended by two or more of such commissioners." (c)

Sect. 34. "Provided, that nothing herein contained shall be construed to re-

(a) It should seem, that a reasonable time must elapse between making a formal demand and taking a distress, or an action of trespass may be sustained. *Gibbs v. Stead and another*, 8 B. & C. 528. If a collector has himself paid the tax upon or without the request of the party assessed, *semble*, he cannot distress after six months from the time of such payment have expired. See 48 Geo. III. c. 141, No. 5, Rule 6, *post*.

(b) See the construction of this clause, and on what goods a distress may be made, and for what description of assessed taxes, *The Earl of Shaftesbury v. Russell*, 1 B. & C. 666; 3 D. & R. 84, S. C.; *Juson v. Dixon*, 1 M. & S. 601: from which it is to be collected, that, for assessments on windows and houses, which are charged upon

the premises, any goods, even of a stranger upon the premises, may be taken. *Juson v. Dixon*, 1 M. & S. 601. But with respect to the duties on horses, carriages, dogs, and others, mentioned in C. D. E. F. G. H. I. J. K. of 43 Geo. III. c. 161, which are charged only upon the person, only the goods of the person charged can be taken, except in instances expressly provided for. 1 B. & C. 669, *supra*. One warrant of distress, for separate and distinct arrears, under different acts of Parliament, is valid. *Patchet v. Bencroft*, 7 T. R. 367.

(c) In *The Earl of Shaftesbury v. Russell*, 1 B. & C. 666, 3 D. & R. 84, S. C., it was held, that as the jurisdiction of the superior courts was not expressly taken away, an action at common law might be maintained for a wrongful distress for taxes.

strain the said commissioners, or any of them, from acting as commissioners in any part of the county, riding, division, or place, for which they are appointed; and that all warrants and precepts of the said commissioners shall and may be executed by the respective persons to whom the same are directed, in any part of the same county, riding, division, or place, for which they are appointed."

Sect. 35. "And whereas it may frequently happen that persons quitting their dwelling-houses or places of residence may remove to other parishes or places, without first discharging or paying the duties charged upon him, her, or them, whereby the said duties made payable by this act will be lost, unless such person or persons so removing can, after such removal, be compelled to pay the same; be it further enacted, that the commissioners acting by virtue of this act, within such parish or place where such duties are charged upon and unpaid by the person or persons removing, as aforesaid, shall sign and cause to be transmitted a certificate thereof to the commissioners acting within the parish or place where the person or persons making such default of payment shall happen to reside; which commissioners, or any two or more of them, shall and they are hereby empowered to raise and levy the said duties charged upon the party or parties removed, as aforesaid, and cause the monies so raised and levied to be paid to the collector of the parish or place from whence the said person or persons did remove, so as the same may be paid and applied according to the true intent and meaning of this act."

Sect. 36. "That, where any parish or place shall be in two or more counties, ridings, or divisions, the duties charged or to be charged in or for such parish or place shall be assessed, raised, levied, collected, and paid, by and under the commissioners acting for that part of the said parish or place where the church or other place of public worship aforesaid shall be situate, and that the whole of such parish or place shall be deemed, for the purposes of this act, to be situate in such county, riding, or division, wherein such church or other place of public worship shall be situate, and also where any dwelling-house, or any other premises occupied therewith hereby charged, shall be situate in two or more parishes, wards, or places, the whole duties to be charged thereon shall be assessed, raised, levied, collected, and paid, in one of the said parishes, wards, or places only, and the party so charged shall be relieved from any second assessment made thereon, or any part thereof, as in other cases of double assessments."

Sect. 37. "That no goods or chattels whatever, belonging to any person or persons at the time any of the said duties to be assessed under the regulations of this act became in arrear, shall be liable to be taken by virtue of any execution or other process, warrant, or authority, or by virtue of any assignment, on any account or pretence whatever, except at the suit of the landlord for rent, unless the party at whose suit the said execution or seizure shall be sued out or made, or to whom such assignment shall be made, shall, before the sale or removal of such goods or chattels, pay or cause to be paid to the collector or collectors of the said duties so due, all arrears of the said duties which shall be due at the time of seizing such goods or chattels, or which shall be payable for the year in which such seizure shall be made, provided the duties shall not be claimed for more than one year; and in case the said duties shall be claimed for more than one year, then the said party at whose instance such seizure shall have been made, paying the said collector or collectors the aforesaid duties due for one whole year, may proceed in his seizure as he might have done if no duties had been so claimed; but in case of refusal to pay the said duties, the said collector or collectors are hereby authorized and required to distrain such goods and chattels, notwithstanding such seizure or assignment, and proceed to the sale thereof according to this act, in order to obtain payment of the whole of the said duties so assessed, together with the reasonable costs and charges attending such distress and sale; and every such collector so doing shall be indemnified by virtue of this act."

Sect. 38. "That all remedies, advantages, powers, methods, and things, which by any act or acts concerning bankrupts, or concerning the method of recovering rent in arrear, are given or granted to any creditors, lessors, or

43 Geo. 3, c. 99.
for which he is appointed.
Warrants of service may be executed in any part of a county, riding, &c.

When persons remove without paying the duties, the commissioners to certify the same to the commissioners of the place where the party can be found;
who are to cause the amount thereof to be levied, and to be paid to the collector of the parish where the assessment was made.

Parishes or places being in two counties, the duties to be assessed in the county where the church is situate;

and houses situated in two parishes, the whole of the duties to be charged in one.

No goods to be taken by virtue of any process, except at the suit of the landlord for rent, unless the party shall pay, or cause to be paid, the arrears, not exceeding one year.

In case of refusal, the collectors may distrain and sell the goods.

Powers of the 27 Geo. 3, and 33 Geo. 3, to be used by commissioners, &c. in recovering arrears.
(a)

(a) See *ante*, sect. 33, and decision thereon.

43 Geo. 3, c. 90.

landlords respectively, and all the powers and provisions of an act passed in the twenty-seventh year of the reign of King George the Second, intituled, 'An Act for the more easy and effectual Proceeding upon Distress to be made by Warrants of Justices of the Peace;' and also of another act, passed in the thirty-third year of the reign of his present majesty, intituled, 'An Act to authorize Justices to impose Fines upon Constables, Overseers, and other Peace and Parish Officers, for Neglect of Duty, Masters of Apprentices for Ill-usage of such their Apprentices;' and also to make provision for the execution of warrants of distress granted by magistrates, as far as the same powers of the said last-mentioned act relate to the execution of warrants of distress granted by justices of the peace, shall be used and practised by such respective commissioners, and by any collector, surveyor, or inspector as aforesaid, acting under the authority of such commissioners, for the recovering and securing any arrears of such duties, as are to be assessed under the regulations of this act, over and above the powers, remedies, rules, and regulations, contained in this act, as fully and effectually as if the same remedies, advantages, powers, provisions, methods, and things were particularly and severally repeated and re-enacted in this act."

Commissioners, quarterly or twice in a year at least, to call the collectors before them and examine them upon oath as to the sums collected by them and paid to the receiver-general; also as to the amount of arrears, and cause thereof; (a)

also the collector of any former year.

Receiver-general, inspector, and surveyor, when required, to assist commissioners.

Collectors neglecting their duty may be dismissed, and the commissioners may from time to time appoint others.

Sect. 39. "That at the end of every quarter of a year appointed for the payment of the sums assessed, or any part thereof, or within *one calendar month thereafter*, or at such other times as they shall think expedient, but *nevertheless twice at least; videlicet*, on or before the *first day of November* and the first day of *May following* in every year, and so from time to time as often as shall be necessary, the several and respective commissioners appointed to put this act in execution, or any two or more of them, within their district, shall and are hereby empowered and required to call before them the *collector or collectors appointed within each parish* or place, as the case may require, and to examine him or them upon oath or solemn affirmation, and *assure themselves* of the sum or sums of money that shall have been collected and paid to such collector or collectors of the duties given to them, or any of them in charge, and to *make such order* therein for the payment of the same to the receiver-general, on the day or time appointed for receiving the same, as they shall judge necessary; and also to assure themselves of the sum or sums in arrear, and the cause or causes thereof; and also, upon such oath or affirmation, to examine the said collector or collectors touching the due payment over of any sum collected by him or them in any preceding part of the same year, and in every such case to make such order therein as aforesaid; and the said commissioners are hereby empowered and required, in every year, to call before them the collector or collectors appointed in each parish, ward, or place, in any former year, where any sum or sums of the duties charged by virtue of any act or acts before mentioned shall be in arrear or unpaid to the receiver-general, and to examine the said collector or collectors on such oath or affirmation as aforesaid, and to *assure themselves* of the sum or sums of money collected by him or them, and of the sum or sums in arrear, and also the sum or sums paid over to the receiver-general, and of the sums remaining in the hands of the said collector or collectors, and to make such order therein as they shall judge necessary to prevent any failure in the payment, in any part of the assessment charged by virtue of any such act or acts, and so from time to time, as long as any of the arrears of the said duties, or any of them charged upon any of the said parishes, wards, or places, shall be in arrear; and the respective receivers-general, inspectors, and surveyors, shall, when required so to do, be assisting to such commissioners in their inquiry in all matters relating to their respective offices."

Sect. 40. "That if any wilful delay or failure shall happen in demanding, receiving, recovering, or paying over any monies of the duties assessed as aforesaid, through the default or neglect of any collector or collectors, it shall be lawful for such commissioners to *revoke* the appointment of such collector or collectors so in default or neglecting, as aforesaid, and by indorsement on the same precept or precepts of appointment, or otherwise by their precept, to appoint a collector or collectors in his or their stead for the remainder of the

(a) See 20 Geo. II. c. 3, s. 34; 43 Geo. III. c. 161, s. 84; and see 48 Geo. III. c. 141.

year, with full power to collect the arrears of the sums then due; and it shall also be lawful for such commissioners, whenever the same shall be necessary, to revoke such last-mentioned appointment, and to appoint a collector or collectors in like manner, from time to time, and as often as any such collector or collectors shall be guilty of such default or neglect, provided security be taken, if required, as in the case of an original appointment, and provided the like security be taken on every such new appointment as shall have been required to be taken on the appointment of collectors at the commencement of any year, as hereinbefore is mentioned; and such collector or collectors so in default as aforesaid, shall, on the demand of such commissioners, deliver up to them, or in their presence, to the collector or collectors newly appointed, all such certificates of assessments which he or they were charged to collect, and all accounts of receipts and vouchers of payment as aforesaid, and also shall pay to the receiver-general all sums then in his or their hands, at such time as such commissioners shall appoint; and if any person, after such removal from the office of collector, shall refuse or neglect to do any matter or thing required by this act, every such person shall forfeit and pay the sum of 50*l.*, to be charged in any assessment of such duties as aforesaid, for such parish, ward, or place, and recovered as such assessment may be recovered, and shall also remain liable to such other forfeitures and disabilities that may be incurred by virtue of this act, for detaining the said monies in his hands after such demand made of the same as aforesaid."

43 Geo. 3, c. 50.

Collectors dismissed to deliver, on demand of the commissioners, to the new collector, the certificates of assessments, &c., or in default to forfeit 50*l.*

Sec. 41. That if any collector, being duly summoned, shall refuse to attend such respective commissioners, or shall not answer all such lawful questions as shall be demanded of him by such commissioners, touching the execution of his office of collector, or shall refuse or neglect to produce to them the certificates of assessments, accounts, or vouchers of such receipts or payments as aforesaid, or shall not obey the order of such commissioners to be made as before directed, every such collector shall forfeit and pay the sum of 50*l.*, to be charged upon him in any assessment as aforesaid, and to be recovered as such assessment may be recovered, over and above any forfeiture or disability that may be incurred by virtue of this act for detaining monies of the said duties in his hands, contrary to this act; and whenever any money of the said duties herein mentioned, shall be detained in the hands of any collector or collectors, or any penalty or penalties imposed on any collector or collectors shall remain unpaid, and the same, or any part thereof, cannot be recovered by or under the warrant or authority of the respective commissioners, or the said respective commissioners shall neglect to issue such warrant, then such part thereof as cannot be so recovered, which shall have arisen from the said duties, shall be recoverable as a debt upon record to the king's majesty, his heirs and successors, with all costs and charges attending the same; and such part thereof which shall arise from any penalty as aforesaid, may be recovered by action or information, as other penalties may by this act be recovered, with full costs of

Collectors refusing to attend commissioners with their assessments, &c., to forfeit 50*l.*

If monies in the hands of collectors cannot be recovered under the warrant of the commissioners, or the commissioners shall neglect to issue such warrant, the amount shall be recoverable as a debt upon record. (a)

(a) If a collector of assessed taxes does not pay over all sums collected by him, the parish is answerable to the crown for the deficiency. *R. v. St. George's, Hanover Square, 3 Aust. 920.*

A collector of taxes in custody under an extent, is not entitled to be discharged, although his deficiency has been made good to the crown by a reassessment upon the parish. *R. v. Bennett, Wigham, 1.*

Local commissioners for the affairs of taxes issued their warrant, under the 43 Geo. 3, c. 99, ss. 41 and 52, for seizing and securing the real and personal estate of a collector refusing to pay over money received by him, but as matter of arrangement did not proceed to sell the property so seized under such

warrant, which had been issued expressly to secure a certain sum of money said to be due from him to the crown. Five days after, the solicitor for the taxes (the collector being declared a bankrupt on that day) issued extents, under which was taken not only the property already secured by the warrant of the commissioners of taxes within their jurisdiction, but also other real and personal property in other places, for the purpose of levying precisely the sum claimed on the same account; but it being eventually discovered, that the sum actually due to the crown for monies received by the collector, amounted to very considerably more than the sum for which the warrant (and consequently the extent) had issued, but

43 Geo. 3. c. 99.

Collectors, when required by the churchwardens, &c., to deliver a statement of their account, on penalty of 20*l*.

suit; and the sum so recovered shall be paid to the receiver-general, *in aid of the parish or place* answerable for the same."

Sect. 42. "That the collector or collectors appointed for any parish, ward, or place as aforesaid, when required so to do by the churchwardens and overseers, or guardians of the poor, or any two of them, or the select vestry as aforesaid, or any seven of them, shall deliver to them respectively an account in writing of the sums received by such collector or collectors, and of the sums

not to double the amount, the crown sold all the property, and applied the proceeds in discharge of the public debt, in aid of the parish, as far as it extended to satisfy it, which produced a net sum much larger than the sum sought to be raised originally, but not sufficient to pay the whole debt; which sum, so produced, was paid into the receipt of the Exchequer in August, 1817. Under such circumstances, this court refused to make absolute a rule (founded on the objection, that it was having recourse to two modes of proceeding for the same debt) granted to show cause (obtained on a motion made in July, 1819) why it should not be referred to the deputy remembrancer, to take an account of the money due to the crown, with a view to get the surplus, beyond the amount of the sum originally sought to be levied, paid back to the assignees of the bankrupt, holding that, for such a debt so incurred in such a character, the crown was entitled to use every mode of proceeding given by statute. The delay in the application, although not conclusive against assignees, strongly prejudiced their claim. *R. v. Jones*, 8 Price, 108.

The protection of parishes from re-assessment is an object of the care of the Court of Exchequer; and the necessity of process of extent in the second degree for that purpose, where a collector is become defaulter, is a strong ground for granting a *stat*; and the existing liability of the parish is consequently no answer to the objection of the crown debt not being in danger. *R. v. W. Bell*, 11 Price, 772.

Distinction between extent in aid and extent in chief in the second degree:—

The statute of the 57th of Geo. III. does not apply to extents in chief in the second degree. Therefore, the crown may proceed by extent to recover a small debt due from a person indebted to the crown debtor (a collector of taxes), who had received and misapplied the crown's money, although he be not a debtor to the crown within the fourth section of that statute. Neither does the recent rule of court, respecting extents in aid, apply to extents in chief in the second degree. It is not necessary, in the affidavit made for obtaining a baron's *stat* for such an extent, in such a case, that there should be any aver-

ment of the insolvency of the crown debtor, or any fact stated from which it may be inferred. *Id. ibid*.

Nor is it necessary, in such a case, that collusion should be negatived. *Id. ibid*.

The sheriff is entitled to levy costs, under 43 Geo. III. c. 99, on an extent against a collector of taxes; and the sheriff's poundage is included in the word charges, and may be levied; and it is payable where the money is paid in before a *conditionis expensas* has issued, although that proceeding is obviated thereby.

But if the agent in the country, of the solicitors for taxes, have received any money from the defendant as costs under the levy, or the sheriffs have taken anything for extra costs, as bailiffs' fees and keeping possession, the court will order them to refund.

It does not seem to be necessary, under that act, that the commissioners should issue their warrant against the collector to recover the duties detained, to authorize the issuing of an extent against him as a condition precedent; or, if it be, it is rather a ground of a motion to set aside the extent for irregularity.

The bill of the solicitors prosecuting the extent for the crown may be taxed. *R. v. Collingridge*, 3 Price, 280.

It was doubted whether a re-assessment could go for the duties on carriages, servants, and horses. *R. v. Wimbledon*, 3 Anst. 855.

If the acting commissioners of taxes refuse (unless indemnified) to proceed to make a re-assessment on a parish, to which the deficiency applies, in execution of the powers entrusted to them by the several acts of Parliament, where an *insuper* has been set on the parish, whose collector is a defaulter, the Court of Exchequer will order them to do so, by rule to show cause, in the nature of a *mandamus*; and will also order a service on their clerk to be deemed good service: the crown is not limited to any time within which to make such an application. *In re Wootton*, 6 Price, 105.

In *R. v. Deane*, 2 Anst. 369, it was held, that where a collector of revenues gave a bond to the crown, the penalty is a security against all the expenses of process and execution against him.

in arrear, and of the sums remaining in his or their hands, and also of the sums paid to the receiver-general; and if any collector shall refuse or neglect so to do, within fourteen days after such demand shall be made, he shall forfeit and pay to the use of the poor of such parish or place, where such collector shall reside, the sum of 20*l*."

Sect. 43. "That if any collector to be appointed as aforesaid, shall neglect or refuse to demand payment of all sums of money given in charge to such collector of the respective persons chargeable therewith, or leave a demand in writing at their respective places of last abode, or on the premises, charged with the assessment, as the case may require, within the time herein limited; or in case of default of payment thereof upon such demand, shall neglect or refuse to execute the warrant or precept of the commissioners for recovering the same, within two calendar months after the said duties are payable, as by this act is directed, it shall not be lawful for such collector to insert in the schedule to be by the receiver-general returned into the Exchequer, the name of such person as having made default of payment of any of the sums rated or assessed on such person, but the parish, ward, or place respectively, for which such collector shall have been appointed, shall be answerable for the same, in the manner directed by any act or acts for granting the said duties herein mentioned."

Sect. 44. "That no collector appointed for any parish, ward, or place, shall be allowed to insert in any schedule the name of any person to be returned into the Exchequer as not having paid the duties made payable by any act or acts herein mentioned, unless such collector shall make oath, or, being one of the people called Quakers, shall make and subscribe a solemn affirmation before two commissioners (who respectively shall certify the said oath or affirmation on the said schedule), that the sum for which such person is so returned in default, is due and wholly unpaid, either to such collector, or to any other person or persons for such collector, to the best of his knowledge and belief, and that such person became insolvent or bankrupt before the day on which the duties became payable, and had not goods and chattels sufficient whereon to raise and levy such duties within the parish, ward, or place, for which such collector shall have been appointed at any time since such duties became payable, or that such person removed from the parish, ward, or place, for which such collector shall have been appointed before the day on which such duties became payable, without leaving therein sufficient goods and chattels whereon such duties then payable could be raised and levied, and that there were not, nor are, any goods and chattels of any person or persons liable to the payment of such duties in arrear, or any part thereof, whereby the same, or any part thereof, could or might be raised or levied, which oath or affirmation shall be indorsed on such schedule."

Sect. 45. "That the collectors appointed as aforesaid shall make a due return fairly written on paper, under their hands, to such commissioners, containing the names, surnames, and places of abode of every person within their respective collections, from whom such collector or collectors shall not have been able to collect or receive such duties for any of the causes before mentioned, and which shall have been duly verified on the oath of such collector as aforesaid, and the particular reason for returning each defaulter, and the sum and sums charged upon every such person; and such commissioners, after due examination thereof on the oaths or affirmations as aforesaid of the collectors, shall ascertain the sums which, according to the provisions of any of the said acts herein mentioned, shall have been discharged from assessment for any cause therein specially allowed; and the said commissioners shall also make out their schedules containing the sums so discharged, and the sums with which each and every such defaulter ought to be charged, and the sums which shall not have been collected by occasion of the collector's neglect, and which ought to be re-assessed on the parish, ward, or place as aforesaid, and shall cause the said several particulars to be inserted in a schedule fairly written on parchment, under the hands and seals of such commissioners, or any two or more of them, containing the names and surnames of the said collectors, and the same to be delivered to the receiver-general, to be returned by such receiver-general

48 Geo. 3, a. 99.

If collectors do not demand duties of the parties charged, and execute the warrants of the commissioners, within a limited time, the names of such persons cannot be returned into the Exchequer, but the parish must be answerable for the same.

Collectors not to insert in any schedule to be returned into the Exchequer, any person as a defaulter, unless upon oath as to certain particulars.

Collectors to make a return upon oath of persons from whom the duties cannot be collected.

Commissioners, after examination on oath of the collector, shall make out schedules of the sums discharged from the assessments, and the sums with which the defaulters ought to be charged, and the sums which ought to be re-assessed upon the parish, and deliver the same to the receiver-general.

43 Geo. 3, c. 90.

neral to be returned into the Exchequer that process may issue.

In default of such schedule, the receiver-general to return the parish *insuper*.

Collector neglecting to make returns, to forfeit 100*l*.

Commissioners to cause two duplicates to be made out within one month after Feb. 10; one for the receiver-general, and the other to be transmitted to the Remembrance Office.

Duplicates to contain the full sum given in charge to the collectors.

Clerks neglecting to make out duplicates, or making false entry, to forfeit 100*l*. and be dismissed.

In case of failure in assessing the duties, or returning the duplicates for any parish, the receiver-general to certify the same to the barons of the Exchequer, with the names of the commissioners, assessors, &c., who shall be respectively liable to process from time to time by writ of *distringas*, on application of commissioners of taxes.

into his majesty's said Court of Exchequer, *whereupon every person so making default of payment, (a) and each parish, ward, or place, so in default, may be charged by process of court according to the course thereof in that behalf*; and, in default of such schedule made out according to the directions of this act, it shall be lawful for the receiver-general, and he is hereby required, to return every such parish, ward, or place *insuper*, for all sums not paid to the receiver-general, and contained in the duplicate of assessment to him delivered, *and all such sums so returned shall in such case be re-assessed on such parish, ward, or place*; and all and every the proper officers therein concerned shall, and they are hereby required, to take care, from time to time, that such process be duly issued and made effectual, so that all such sums as shall be in arrear and unpaid as aforesaid, may be speedily recovered and paid into his majesty's Exchequer; and if any such collector shall neglect or refuse to make such return in manner before directed, every such collector shall forfeit the sum of 100*l*."

Sect. 46. "That the respective commissioners aforesaid shall cause two duplicates of every assessment to be made out on parchment by their clerk, within one month at farthest after the tenth day of February, after the making the said assessment yearly, and one of them to be delivered unto the respective receivers-general, and the other of them transmitted into the office of king's remembrancer in the Exchequer, for which duplicates the proper officer shall give acquittances *gratis*, so as every of them may be duly charged to answer their respective collections and receipts, and the said duplicates shall be made for the same hundreds, rapes, laths, wapentakes, wards, parishes, or places, or divisions, for which distinct duplicates are directed to be made out, or may be made by virtue of the said recited act for granting an aid by a land-tax before mentioned, and every such duplicate shall contain the names and surnames of the several assessors and collectors for every hundred, rape, lath, wapentake, ward, parish, or place, or other division, and the full amount of the sums given in charge to the collectors throughout the whole year shall be inserted, without any discharge, diminution, or defalcation, on any pretence whatever; and if any clerk to such commissioners shall neglect or refuse to make out and deliver such duplicates as aforesaid, within the time and in manner hereinbefore directed, or shall make any false entry, or omit any sum or sums in such duplicates, every such clerk shall forfeit and pay the sum of 100*l*., and, on conviction thereof, shall be discharged from his said office."

Sect. 47. "That in case there shall be any failure of assessing or charging the said duties in any parish, ward, or place, or of returning the duplicates of the assessments made for any such parish, ward, or place, or of raising or paying the several sums charged upon any person or persons in any such parish, ward, or place, within the respective times limited by this act, the receiver-general acting for the duties charged or to be charged on such parish, ward, or place, shall and may, at any time after such failure hath happened, certify to the barons of the Court of Exchequer at Westminster, the particular parish and parishes, ward or wards, or place and places, and the particular division where any such failure hath happened, and the cause thereof, to the best of his knowledge, together with the names of the commissioners appointed, as aforesaid, to act for the hundred, rape, lath, wapentake, city, ward, town, or place, or the division wherein such failure hath happened, or any two or more of them residing within such division, hundred, rape, lath, wapentake, city, ward, town, or place, and also the names of the assessors and collectors, and the several persons belonging to such parish or place charged to such duties, and who shall have made failure in the payment thereof, in case an assessment shall have been made, which said commissioners, assessors, and collectors, and any person or persons charged with such duties, shall be respectively liable to process for such neglect by the order of such barons, according to the exigency

(a) Mode of procuring the discharge of a crown debt (arrears of taxes), and obtaining release from process, where the debt is paid by the crown debtor, is upon motion by the attorney-general. See the proceedings, *ex parte Bennett*, 11 Price, 770.

of the case, which process shall be by writ of *distringas*, to be forthwith and from time to time, as there shall be occasion, issued out of the said court, on the application of the commissioners for the affairs of taxes, against such of the said commissioners, officers, or persons, who shall have made such failure, upon which writ of *distringas*, the sheriff or other officer to whom the same shall be directed, shall return such issues as the said court shall order at the return of such writ; and immediate process shall thereupon issue for levying the same, out of and under the seal of the said Court of Exchequer, unless the said commissioners for the affairs of taxes shall certify to the said court, if in the term time, or to any one of the said barons, if in the vacation, that the commissioners, officers, and other persons, against whom such writ issued, have complied with the directions of this act, in which case it shall be lawful for such court or baron to cause such process to be respited till a future day, and so from time to time, or to be finally discharged."

48 Geo. 3, c. 20.
Commissioners of taxes to certify to the Court of Exchequer when the persons against whom such writ shall issue, have complied with the directions of the act, upon which the process may be respited or discharged.

5. *Collectors paying over Money—Parishes' Liability for default, and Proceedings thereon. (a)*

Sect. 48. "That all monies of the duties herein mentioned, to be assessed under the regulations of this act, shall, at such times as shall be appointed for the payment thereof, be paid by the particular collectors who shall collect the same, unto the receiver-general now or for the time being appointed by his majesty, his heirs or successors, or by the lord high treasurer for the time being, or the commissioners of the treasury for the time being, or any three or more of them, to receive the same, or the deputy or deputies of such receiver-general, to be appointed under his hand and seal, and whom he is hereby authorized to appoint, and for whom he shall be answerable, whereof notice shall be given by the receiver-general unto the commissioners, or any two or more of them, within their respective districts, within twenty days after the first meeting, yearly, and so from time to time, within twenty days after every death or removal of any deputy, whenever any such shall happen; and the said receiver-general, his deputy or deputies, shall give receipts *gratis* to the said collectors of all monies by them received in pursuance of such act or acts; and the receipt of such receiver-general, his deputy or deputies, or any of them, shall be a sufficient discharge unto every such collector."

Collectors to pay the amount of the duties to the receiver-general or his deputy.

Notice of appointment of deputies to be given to commissioners.

Receiver-general to give receipts to collectors, gratis.

Sect. 49. "That the receivers-general, their deputy or deputies, are hereby empowered and required to call upon and hasten the collectors to make the payments of all sums received by them of such duties as aforesaid, and in default of such payment, to cause the same to be levied by warrant under the hands and seals of any two or more of such commissioners, upon the collectors, by distress and sale of his or their goods and chattels, such sum and sums of money as he or they hath or have received, and as ought by him or them to have been paid, and is not paid."

Receiver-general to hasten collectors to make payments, and in default to cause the same to be levied by warrant of the commissioners upon the collectors' goods.

Sect. 50. "That the particular collectors for payment of any sums by them received, unto such receiver-general or his deputy, shall not be obliged to travel above ten miles from the place of their habitations."

Collectors not obliged to travel above ten miles to make his payments to the receiver-general.

And see sects. 39, 40, 41, 42, 43, 44, 45, *ante*, p. 713.

Sect. 51. "That no collector or collectors of any of the duties herein mentioned shall collect or gather the same by any rate or book, other than such rate and book as shall be signed and allowed by such commissioners as aforesaid, or any two or more of them; and that in case any such collector or collectors shall collect the same by any other rate or book, or shall receive such duties from any person or persons not charged therewith, or shall collect from any person or persons more money than is actually charged in such rate or book, and not pay the whole money by him collected, or fraudulently alter any such rate or book, after the same hath been signed and allowed by such commissioners as aforesaid, every such collector or collectors shall for every such offence forfeit the sum of 100*l*."

Collectors gathering by a false book, or receiving more than is charged in the rate, or fraudulently altering any rate, to forfeit 100*l*.

Sect. 52. "That if any such collector or collectors shall neglect or refuse to pay any sum or sums of money which shall be by him or them received as

If collectors refuse to pay the duties received

43 Geo. 3, c. 90.

by them, or to deliver their accounts, the commissioners may imprison them, and seize their estate and effects.

Commissioners seizing collector's estate, &c., to appoint a meeting, giving ten days' notice thereof;

Commissioners at such meeting to sell the collector's estate and effects, to satisfy the debt due from him, with costs and charges.

aforsaid, as in and by this act is directed, and shall detain in his or their hands any money received by them or any of them, and not pay the same at such time as by this act is directed, or shall have wilfully refused to give an account to such commissioners as aforesaid, of the sums by him or them collected in *manner before* directed, the said respective commissioners, or any two or more of them, in their respective jurisdictions, are hereby authorized and empowered to imprison the person, and seize and secure the estate as well *freehold as copyhold, and all other estate, both real and personal, of such collector or collectors* to him or them belonging, or which shall descend or come into the hands or possession of his or their heirs, executors, or administrators, wheresoever the same can be discovered and found: and such commissioners who shall so seize and secure the estate of any collector or collectors, shall and are hereby empowered to appoint a time for a meeting of the commissioners for such division, city, town, or place, and there to cause public notice to be given of the place where such meeting shall be appointed, ten days at least before such meeting; and the commissioners present at such meeting, or the major part of them, in case the accounts of such collector be not duly delivered, or the monies detained by any such collector or collectors be not *paid or satisfied*, as ought to be done according to the directions of this act, shall be and are hereby empowered and *required to sell and dispose of all such estates* which shall be for the cause aforesaid seized and secured, or any part of them, to satisfy and pay into the hands of the receiver-general the sum that shall not be so accounted for, or shall be so detained in the hands of such collector or collectors, their heirs, executors, or administrators respectively, together with the reasonable costs and charges of recovering, raising, and paying the same; which costs and charges shall be ascertained and settled by the said commissioners, and the overplus (if any) shall be restored to the person who owned the estate before the sale thereof."

And see the 48 Geo. III. c. 55, *post*, 724.

6. Receiver-General—Payments and Accounts.

Receiver-general to deliver a certificate of the sums received by him in each parish, to such person as the commissioners of the district, or the collector of taxes, shall appoint, under a penalty not exceeding 20*l*.

Sect. 53. "That at every time and place appointed by the commissioners of the district, for the collectors to pay in the monies to be paid to the receiver-general or his deputy, the said receiver-general or his deputy, under his hand, shall deliver a list or certificate, fairly written, to such person as such commissioners, or any two or more of them, or the commissioners for the affairs of taxes, or any three or more of them, for the time being, shall under their hands authorize and appoint to attend then and there for that purpose, containing the several and respective sums of money then and there or before that time paid by the respective collectors for each parish, ward, or place in that district; and in case there shall be any refusal or neglect in delivering such lists or certificates as aforesaid, such receiver-general or his deputy, so refusing or neglecting, shall forfeit any sum of money not exceeding 20*l*."

Receiver-general to pay the monies received by them into the Exchequer.

Sect. 54. "That the respective receivers-general shall pay the several sums of money by them received, as soon after the receipt thereof as conveniently can be done, and at such times and in such manner as shall be directed under the authority of this act; and in case such receiver-general or his deputy shall pay any part of the monies paid to him or them by any collector, to any person or persons whatsoever other than into the receipt of his majesty's said Exchequer, and at or within the respective times limited by this act (except the necessary charges of receiving, levying, managing, paying, and accounting for the same, as is hereinafter directed, and except such payments as shall be made by authority of any act or acts of Parliament), then such receiver-general shall for every such offence of himself or his deputy forfeit the sum of 500*l*."

Receiver-general (unless his accounts are passed within two years) not to return any county, &c., *insuper* for monies in arrear,

Sect. 55. "That no such receiver-general, or any heirs, executors, or administrators of such receiver, shall in any accounts of the monies wherewith such receivers shall be chargeable as aforesaid (unless such account shall be declared and passed in the Exchequer, within two years at the furthest after the end of the year for which such rates and duties shall be payable), be allowed

1. The Act consolidating the Provisions relating, &c.

719

or admitted to set *insuper*, or charge any county, division, or place for any monies granted by any act or acts herein mentioned, which shall be in arrear and unpaid, but that the same shall remain a debt upon every such receiver, to be answered by him and his securities, his and their heirs, executors, and administrators' lands, tenements, goods, and chattels respectively; anything herein contained to the contrary notwithstanding."

42 Geo. 3, c. 29.
but the receiver
to be answerable
for the same.

See sect. 19, *ante*; sect. 35, 36, 37, 38, *ante*; 59 Geo. III. c. 118, s. 1, *post*.

Sect. 56. "That if any such receiver-general shall return or certify unto the said court, any sum or sums of money to be in arrear or unpaid, after the same have been received either by such receiver-general, or his deputy or deputies, or any of them, or shall cause any person or persons to be set *insuper* in the said court, for any sum or sums of money that have been so received, that then every such receiver-general shall forfeit to every person and persons that shall be molested, vexed, or damaged, by reason of such unjust certificate, return, or setting *insuper*, double the damages that shall be thereby occasioned, the said damages to be recovered by action of debt, bill, plaint, or information, in which no essoin, protection, or wager of law, shall be allowed, nor any more than one imparlance; and shall also forfeit to his majesty, his heirs and successors, double the sum that shall be so unjustly certified or returned, or cause to be set *insuper*, to be recovered as other penalties may be recovered by this act."

Receiver general
returning any
sums in arrear or
insuper after he
has received the
same, to forfeit
double the da-
mages.

Sect. 57. "That if any such receiver-general shall die or be removed, notice thereof shall be given by the commissioners for the affairs of taxes, to two or more commissioners acting for each district in the county or place for which such receiver was appointed, before the time appointed for the next quarterly payment of any of the duties herein mentioned, and so from time to time upon the death or removal of such receiver-general."

Commissioners
of taxes to give
notice of the
death or removal
of any receiver-
general to the
commissioners of
the districts.

Sect. 58. "That no such receiver-general, or any of his agent or agents, servant or servants, by him employed for carrying any of the monies to be received for or on account of any of the duties herein mentioned, shall maintain any action or actions against any hundred or hundreds for or upon account of his or their being robbed on the king's highway of any of the said monies, unless the person or persons carrying, or accompanying the person or persons carrying such monies, shall at the time of such robbery be together in company, and be in number three at the least, to attest the truth of his or their being so robbed; any law, statute, or provision to the contrary thereof in any-wise notwithstanding."

Receiver-general
not to maintain
action against
the hundred on
being robbed,
unless there are
three persons in
company.

And see 45 Geo. III. c. 71, s. 1, *post*, 723, and 3 Geo. IV. c. 88, *post*, 725 to 728.

7. General Provisions for enforcing the Act.

Sect. 59. "That all constables, headboroughs, tithingmen, and other his majesty's officers, shall, and are hereby required and enjoined, to be respectively aiding and assisting in the execution of this act, and of every act or acts for granting duties to be assessed under the regulations of this act, and to obey and execute such precepts and warrants as shall be to them directed in that behalf by the respective commissioners hereby appointed, or any two or more of them."

Constables, &c.,
to be aiding and
assisting in the
execution of this
act.

Sect. 60. "That if any person or persons shall, at any time hereafter, wilfully obstruct any assessor or assessors, collector or collectors, surveyor or surveyors, inspector or inspectors, in the due execution of his or their said office or offices, duty or duties respectively, such person or persons shall, for every such offence, forfeit the sum of 50*l*."

Persons obstruct-
ing officers, to
forfeit 50*l*.

Sect. 61. "That the said receivers-general, their deputy and deputies, surveyors, inspectors, and all other officers and persons who shall be employed in the execution of this act, or any act or acts for granting duties to be assessed under the regulations of this act, shall observe and follow such orders, instructions, and directions as they shall from time to time receive from the said commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being."

Officers to follow
such instructions,
&c., as they shall
receive from the
commissioners of
the Treasury.

And see, *post*, sect. 67, 68.

8. Recovery and Application of Penalties.

Application of penalties sued for within twelve months.

Attorney general may stay proceedings.

Recovery and application of penalties not sued for within twelve months.

One moiety of penalties recovered for his majesty's use, may be disposed of as the commissioners of taxes shall direct, in rewarding the persons giving the information.

Penalties not exceeding 20*l.* to be recoverable before two commissioners, and also penalties exceeding that amount, if directed to be added to the assessments.

Commissioners may mitigate penalties to one moiety thereof.

Sect. 62. "That one moiety of all pecuniary penalties and forfeitures imposed by this act, or any act or acts for granting duties to be assessed under the regulations of this act, may, if sued for within the space of twelve calendar months from the time of such penalties being incurred, in manner herein next mentioned, be to his majesty, his heirs and successors, and the other moiety thereof, with full costs of suit, to the person or persons who shall inform or sue for the same within the time aforesaid, except where any penalty is or shall be directed to be paid to the use of the poor of any parish; and all such penalties may be sued for in his majesty's Court of Exchequer at Westminster, for offences committed in England or Berwick-upon-Tweed, or in the courts of great sessions in Wales, for offences committed in Wales, by action of debt or information, wherein no essoin, protection, privilege, wager of law, nor more than one imparlance, shall be allowed; but nevertheless it shall be lawful for his majesty's attorney-general, in case it shall appear to his satisfaction that any penalty or forfeiture was incurred without intention of fraud, to stay all further proceedings in such suits or prosecutions, by entering a *noli prosequi*, or otherwise, with respect as well to the share of such penalty or forfeiture claimed by such informer or informers, as to the share thereof belonging to his majesty."

Sect. 63. "That any such penalty or forfeiture shall be recoverable in the name of his majesty's attorney-general, on the part of his majesty, by information in the Court of Exchequer at Westminster; and in default of prosecution within the time hereinbefore limited, no such penalty or forfeiture shall be afterwards recoverable in any other manner, in all which cases (except where the same is directed to be paid to the use of the poor of any parish or place), the whole of such penalty or forfeiture shall belong to his majesty, his heirs and successors; and that all penalties and forfeitures, and shares of penalties and forfeitures incurred as aforesaid, belonging to his majesty, his heirs and successors, shall be paid into the hands of the proper receiver-general or his deputy, to the use of his majesty, and that in all cases where the whole of such pecuniary penalty or forfeiture shall be recovered for the use of his majesty, his heirs, or successors, it shall be lawful for the commissioners for the affairs of taxes to cause such reward as they shall think fit, not exceeding one moiety of such penalty or forfeiture so recovered, after deducting all charges and expenses incurred in recovering the same, to be paid thereout to or amongst any person or persons who shall appear to them entitled thereto as informer or informers, in respect of such penalties or forfeitures so recovered; anything herein contained to the contrary notwithstanding."

Sect. 64. "That all such pecuniary penalties not exceeding 20*l.* imposed by this act, or any act or acts for granting duties to be assessed under the regulations of this act, may be recoverable before two or more commissioners for executing this act; and also such of the penalties exceeding 20*l.* as are directed to be added to the assessment of the duties in any parish, ward, or place in the district where the offence shall be committed; and such commissioners shall take cognizance of such offence upon information or complaint in writing made to them, and upon a summons to the party accused to appear before the said commissioners at such time and place as they shall fix, or without such summons, in case the party or parties shall have been surcharged before the said commissioners, and shall have appealed against the same, and shall appear upon such appeal before the said commissioners; and such commissioners shall examine into the matter of fact, and proceed to hear and determine the same in a summary way; and, upon proof made thereof, either by voluntary confession of the party accused, or by the oath or solemn affirmation of one or more credible witness or witnesses, or otherwise, as the case may require, to give judgment for the penalty, or for such part thereof to which part thereof the said commissioners shall think proper to mitigate, the same not being in any case less than one moiety of such penalties, and to assess the same upon the party, and charge the same in the assessment to which the penalty adjudged shall

particularly relate, and in addition to the duty, in case the party shall be charged therewith, and which penalties so adjudged shall be levied in like manner as the said duties, and the informer or informers shall in all such cases (except where the penalty is to be paid to the poor of any parish or place, in which case the receiver-general shall pay the same to the churchwardens or overseers of the poor of such parish or place, or one of them), be entitled to receive from the receiver-general one moiety of the amount of such penalties, in such shares, where two or more of them are concerned, as the commissioners for executing this act shall certify to the commissioners for the affairs of taxes they are respectively entitled unto, and the said adjudication of the commissioners shall be final and conclusive to all intents and purposes, without power of appealing from the same; and the proceedings of the commissioners shall not be removable by any process whatever into any court of law or equity, or be subject to revision, except in such cases where a surcharge shall be made, and a case shall be demanded and stated for the opinion of one of the justices or barons of the superior courts, conformably to the directions contained in any act or acts, granting the duties to which such surcharges shall relate."

Sect. 65. "That if any person or persons upon any examination on oath or affirmation shall wilfully give false evidence, or make any false oath or affirmation or affidavit, or shall wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, before the commissioners for executing this act, or any of them, touching any matter or thing within the intent and meaning of this act, or any act or acts for granting duties to be assessed under the regulations of this act,† shall be prosecuted for the same; every such person or persons being convicted thereof, shall be subject and liable to the same punishment and disqualifications as persons are subject and liable to for wilful and corrupt perjury, by the laws and statutes of the realm of England."

Sect. 66. "That any indictment or information for perjury committed in any such examination, affidavit, or deposition whereon the same shall be made, shall and may be laid, tried, and determined in the county where the same shall be exhibited to the commissioners in pursuance of this act, or the said act or acts before mentioned."

Sect. 67. "That all and every the duplicates of the several books of assessments which have been or shall be made and delivered by the respective assessors of the said several duties, to the commissioners in any division or place, or to their respective clerks for the time being, and which are or shall be in the custody, keeping, or possession of such commissioners or clerks respectively, and all minute-books, and other public books and papers relating to the said several duties, in the custody, keeping, or possession of any such clerk or clerks, who hath or have been, or shall be removed from such office or offices, or in the custody, keeping, or possession of the executors, administrators, or other legal representatives of any person or persons who hath or have died, or shall die during his or their holding such office or offices, or after his or their removal from the same, or in the custody, keeping, or possession of his or their respective agent or attorney, or of any other person or persons soever, shall be deemed, and are hereby declared to be the property of the commissioners of the said several duties, acting in the respective divisions or places, for the time being, and in succession, as records of and belonging to them the said commissioners, for their use and inspection, and shall be placed and deposited with and remain in the custody, keeping, and possession of them the said commissioners, or their respective clerks for the time being, or such other person as the said commissioners, or any two or more of them, for the time being, shall from time to time at their meetings order, direct, or appoint."

Sect. 68. "That all and every person and persons whatever, now or at any time hereafter, having in his or their custody, keeping, or possession, any such books or papers aforesaid, relating to the said several duties in this act mentioned, shall, within the space of one calendar month next after notice in writing, signed by three or more of the commissioners for the affairs of taxes (a true copy thereof being given to or left at the usual place of abode of such person or persons), deliver and give up all such books and papers, unto such person or persons as the said commissioners for the affairs of taxes by such notice

43 Geo. 3, c. 90.

Informers may receive such proportion of the penalties as the commissioners shall certify to the commissioners of taxes.

Proceedings of commissioners not to be subject to revision, except where cases have been demanded, upon a surcharge, for the opinion of the judges.

Persons giving false evidence before commissioners, and convicted thereof, liable to the punishments for perjury.

† *Sic* in act.

Indictment for perjury to be tried in the courts where the deposition shall be exhibited.

Books of assessments and all other books and papers relative to the duties declared to be the property of the commissioners of the districts for the time being, and in succession

Persons having any books or papers relating to the duties, to deliver the same to such persons as the commissioners of taxes shall appoint, under the penalty of 50*l*.

43 Geo. 3, c. 99.

Persons receiving the same to deliver them to such of the commissioners for executing this act, as the commissioners of taxes shall direct.

Commissioners employed in the execution of this act, not liable to the penalties in the 25 Car. 2.

Limitation of actions.

One month's notice of action to be given to the party by the attorney for the plaintiff, containing certain particulars. (a)

Defendant may tender amends, which, if not accepted, may be pleaded in bar of action.

Defendant may plead the general issue.

Defendant to have treble costs.

Actions brought against collectors to be defended by the commissioners of the district, and the costs and charges attending the same, and also any other actions or be brought by or against commissioners or collectors, to be defrayed by an assessment on the parish.

shall order and appoint, whose receipt of the same shall be a good and sufficient discharge to such person or persons so delivering such books and papers; and if any such person or persons now or at any time hereafter having in his or their custody, keeping, or possession, any such books or papers, shall refuse or neglect to deliver the same within the time limited by such notice, and demand made, he or they shall for every such offence forfeit and pay the sum of 50*l.*; and all such books and papers shall be delivered by the person or persons so appointed to such of the commissioners for executing this act, as the said commissioners for the affairs of taxes shall think proper, for the effectual and speedy execution of the powers by this act granted."

Sect. 69. "That no such commissioner or commissioners, who shall be employed in the execution of this act, or any act or acts for granting duties to be assessed under the regulation of this act, shall be liable, for or by reason of such execution, to any of the penalties mentioned in an act, made in the twenty-fifth year of King Charles the Second, for preventing of dangers which may happen from popish recusants."

Sect. 70. "That if any action or suit shall be brought against any person or persons for anything done in pursuance of this act, or any act for granting duties to be assessed under the regulations of this act, such action or suit shall be commenced within six calendar months next after the fact committed, and not afterwards, and shall be laid in the county or place where the cause of complaint did arise, and not elsewhere; and no writ or process shall be sued out for the commencement of such action or suit, until one calendar month next after notice in writing shall have been delivered to, or left at the usual place of abode of such person or persons, by the attorney or agent for the intended plaintiff or plaintiffs, in which notice shall be clearly and completely contained, the cause and causes of action, the name and place or places of abode of the intended plaintiff or plaintiffs, and of his or their attorney or agent, and no evidence shall be given on the trial of such action or suit of any cause or causes of action, than such as is or are contained in such notice; and the intended defendant or defendants to whom such notice shall have been delivered, may at any time before the expiration of such calendar month tender amends to the intended plaintiff or plaintiffs, his or their attorney or agent, and in case such amends are not accepted, may plead such tender in bar to any action or suit, to be brought against him or them, grounded on such notice, writ, or process; and the defendant or defendants in every such action or suit may plead the general issue, and also such tender, and any other plea, with leave of the court, in bar of such action or suit; and may give this act and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the defendant in any such action or suit, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his or their action or suit after the defendant or defendants shall have appeared; and if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant hath in any other case to recover costs of law; and every such action or suit which shall be brought against any collector or collectors appointed under this act, shall be defended by the commissioners acting for the division or place where such collector shall have been appointed, and the costs and charges attending the same, as also any other action or suit to be brought by or against commissioners or collectors in pursuance of this act, or for anything done in pursuance of this act, or any act for granting duties to be assessed under the regulations of this act, shall be defrayed by an assessment made on the parish or place for which such collector or collectors

(a) In *Umphelby v. M'Lean*, 1 B. & A. 42, assumpsit for money had and received brought to recover the amount of an excessive charge made by the defendants as collectors, on a distress for arrears of taxes: held, that the defendants were not entitled to a month's

notice before action brought, under the 43 Geo. III. c. 99, s. 70, which provides, that no writ or process shall be sued out for anything done in pursuance of that act, till after one month's notice. But see 4 B. & C. 200, *semble contra*.

shall have been appointed, in a just proportion to the amount of the duties payable under this act, on the respective persons charged to the same in the assessment to be made next after the time when the said costs and charges shall have been incurred." 43 Geo. 3, c. 90.

Schedule (A.)

'The form of the Oath required to be taken by Commissioners before they act in the execution of this act.

"I, A. B., do swear, that I will truly, faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and authorities reposed in me as a commissioner, by an act passed in the forty-third year of the reign of King George the Third, intituled, 'An Act' [here insert the title of this act], or by any other act or acts, granting to his majesty any duties to be assessed under the regulations of the said act; and that I will judge and determine upon all appeals, and all other matters and things, which shall be brought before me as a commissioner under the said acts, or any of them, without favour or affection.

"So help me God."

Schedule (B.)

"The form of the Oath or Affirmation required to be taken by Assessors before they act in execution of this act.

"I, A. B., do swear [or, affirm, as the case may require], that I will diligently execute the office of an assessor, to which I am appointed by authority of an act passed in the forty-third year of the reign of King George the Third, intituled, 'An Act' [here insert the title of this act]; and that, in the assessment which I am required to make by any other act or acts, granting to his majesty any duties to be assessed under the regulations of the said act, I will faithfully and honestly act, without favour or affection, according to the best of my skill and knowledge. So help me God."

The 45 Geo. III. c. 5, s. 1, after reciting, that "whereas by an act passed in the forty-third year of the reign of his present majesty, intituled, 'An Act for Consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for Amending the same,' the commissioners appointed to carry into execution the said act, and other acts to be executed under the regulations thereof, are required to possess certain qualifications therein mentioned, and to be resident in the district for which they act; and it is expedient to remove the said restrictions in the cases herein mentioned," enacts, "that the said acts shall not be construed to restrain any benchor of any of the inns of court from acting as such commissioner for such inn of court, and the inns belonging thereto, whether of law or equity; nor any of the officers who, by virtue of their offices, have heretofore acted in the execution of the land-tax act, from acting as such commissioner in the liberty of the palaces of Whitehall and St. James's; and no other qualification shall be required of any such benchor or officer aforesaid, than the possession of such places or offices respectively, and who respectively shall and may act therein, although they shall not be resident within the district for which they shall act."

Sect. 2. "That persons residing in either of the parishes of St. Clements Danes, St. Mary-le-Strand, or St. John the Baptist, in the liberty of the Savoy, parts thereof being situate in the county of Middlesex, and other parts in the city and liberty of Westminster, being specially named and appointed commissioners for the said county of Middlesex, or for the said city and liberty of Westminster, and being duly qualified as directed by the said first-mentioned act, may act as such commissioners for any or all of the divisions or districts within the said parishes, or any of them; anything in the said first-mentioned act contained to the contrary notwithstanding."

N. B. The Third Section is expired.

The 45 Geo. III. c. 71, s. 1, after reciting, that "whereas it is expedient to amend the several laws relating to the duties under the management of the commissioners for the affairs of taxes in the particulars herein mentioned," enacts, "that every account of the monies received or paid by any receiver-

45 Geo. 3, c. 5.

Benchers may act as commissioners for the inns of court; and officers acting in the execution of the land-tax may act as commissioners for Whitehall and St. James's.

Persons residing in certain parishes may act as commissioners for Middlesex or Westminster for any division within such parishes.

45 Geo. 3, c. 71.

Receiver-general's accounts, in England, may be verified on oath before commissioners of district.

45 Geo. 3, c. 71.

general of the said duties, or any of them, or by his deputy or deputies in England, which shall hereafter be transmitted to the office for taxes according to the usage thereof, shall be verified on the oath or oaths of such receiver-general, or his deputy or deputies, to the best of his or their knowledge or belief, which oath may be administered by any commissioner acting in the execution of any of the acts relating to the said duties in the district where he shall so act; and such oath shall be deemed to be of the like force and effect, to infer pains and penalties, as any oath to be administered by commissioners in any matter relating to the execution of the said acts: saving always, to the barons and officers of his majesty's Court of Exchequer in England, and the commissioners for the affairs of taxes, their power respectively to administer such oaths according to ancient usage."

Duplicates of assessments directed to be sent to the remembrancer (see 43 Geo. 3, c. 99, s. 46, &c.) shall be sent to Tax Office, &c.

Sect. 2. "That the duplicates of the assessments directed by the said acts to be sent and delivered by the respective commissioners to the king's remembrancer in England, to be kept in his majesty's Exchequer, shall hereafter be sent by them to, and delivered at the office for taxes, for the previous inspection of the commissioners for the affairs of taxes, who may cause copies thereof, or any part thereof, to be taken, and who shall afterwards transmit such duplicates to the king's remembrancer for the purposes mentioned in the said acts; and if such duplicates shall not be so delivered within the time required by the respective acts in that behalf, the clerk to the commissioners who shall wilfully offend against the provisions of this act shall forfeit the sum of 50*l.*, to be recovered and applied as any penalty may be recovered and applied by any act relating to the said duties."

Penalty for neglect, 50*l.*

The Third Section enacts that the tax-office may order the receiver-general to repay money overpaid on assessment upon reversal of the determination of commissioners, upon a case stated for opinion of one of the judges.

46 Geo. 3, c. 55. Allowances to receivers-general, collector, and clerks.

The 46 Geo. III. c. 55, s. 7, enacts, "that every receiver-general shall have an allowance of three halfpence in the pound for all monies which shall be by him received and paid into the receipt of Exchequer, or duly accounted for according to the course of his majesty's Exchequer; and that every collector shall have three-pence in the pound for what money he shall pay to the receiver-general or his deputy or deputies, within the time limited by the several acts herein mentioned, for all the duties granted by this act, save and except the duties granted and contained in schedule (L.) annexed to this act, for which other compensation is hereby directed to be made to such collector, and also for what money such collector shall pay out of such duties, except as aforesaid, to any person or persons in pursuance of any other act or acts of Parliament, and shall duly account to such receiver-general or his deputy for such payments; and that for the careful writing and transcribing all and every the assessments, duplicates, warrants, and estreats, in due time, and for the due, speedy, and effectually executing all matters and things directed to be done or performed by or under the commissioners acting in the execution of the several acts relating to the duties contained in this act then in force, the clerk of the said respective commissioners who shall perform the same within the respective times limited by the said acts, shall, by warrant under the hands of two or more of the commissioners of each district respectively, have and receive from the respective receivers-general, their deputy or deputies, the respective sums hereinafter limited for every pound of all such monies of the said duties as he or they shall have received by virtue of the assessments of the said commissioners respectively, who is and are hereby appointed and allowed to pay the same accordingly; provided the said several acts be carried into execution in due time, and in an effectual manner, for the division in which he shall be appointed the clerk, and all warrants, assessments, estreats, and certificates, be made out and delivered according to the directions of the said acts, and the duplicates be delivered to the said receiver-general, and into the office of the commissioners for the affairs of taxes, within the times limited by the said acts, but not otherwise; that is to say, if the total amount of such allowance for one year, calculated at the rate of 1½*d.* in the pound, on the monies assessed in that year, and paid to the receiver-general or his deputy as aforesaid, shall amount to 100*l.* or upwards, then such clerk shall not be entitled to re-

ceive any further or greater allowance than at the rate of 1½d. in the pound, of the said monies so paid: provided also, that if the total amount of the monies of the said duties received by such receiver-general or his deputy for one year, in any district of commissioners, shall exceed 96,000*l.*, then the clerk of such district shall have an allowance at the rate of 1½d. in respect of every pound of the said 96,000*l.*, part thereof, and a further allowance at the rate of one half of 1½d. for every pound of the said monies exceeding 96,000*l.*; and if the total amount of such allowance, calculated at the rate of 1½d. in the pound on the said monies, shall not amount to 100*l.*, then such clerk shall be entitled to receive an allowance at the rate of 1½d. in the pound, of the monies so paid; so as that the allowance, calculated as last aforesaid, shall in no case be granted to any greater amount than 100*l.* per annum."

48 Geo. 3, c. 55.

By the 59 Geo. III. c. 118, s. 1, it is enacted, "that no person or persons becoming, or who shall have become bankrupt or insolvent, shall be liable to be assessed to the said duties after the 5th day of April next after the time of such bankruptcy or insolvency, in respect of any article or articles kept and used for the purposes of trade at or before the time of such bankruptcy or insolvency, which article or articles shall have been seized or surrendered, and *bond fide* sold under or by virtue of such bankruptcy or insolvency, and not kept or used by such bankrupt or insolvent after the 5th day of April next after such bankruptcy or insolvency: provided that nothing herein contained shall be construed to affect the payment by the assignee or assignees of every such bankrupt or insolvent, and such assignee or assignees shall pay the duties assessed on every such bankrupt or insolvent at the time of such bankruptcy or insolvency up to the 5th day of April next after the same shall have happened, as if this act had not been made."

59 Geo. 3, c. 118. Persons not liable to assessments after 5th of April which shall next happen after bankruptcy or insolvency, for articles kept and used for trade, and surrendered, &c.

Proviso for payments made by assignees.

The 3 Geo. IV. c. 88, after reciting, that "whereas it is expedient to amend the laws relating to the land-tax and assessed taxes, and compositions for assessed taxes, so far as respects the receipt and payment of the monies arising therefrom by the receivers-general in England and Wales;" enacts, "that so much and such parts of the several acts relating to the said taxes and compositions for assessed taxes, or either of them, which allow a compensation to each receiver-general in England and Wales, by a pound rate on the sums by him respectively paid into the receipt of his majesty's Exchequer, or which require the said receivers-general to appoint sufficient deputies to receive the said taxes, shall, from and after the fifth day of April, 1822, in respect of the assessments of the said taxes and the contracts of compositions thereafter made, be and the same are hereby repealed."

3 Geo. 4, c. 88. As to poindage to receiver-general to cease

Sec. 2. "That every person who, after the fifth day of April, 1822, shall be appointed by his majesty, his heirs or successors, or by the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland for the time being, or any three or more of them, to be receiver-general of the said taxes, or either or any of them, and any other taxes or sums of money under the care and management of the commissioners for the affairs of taxes; and every other person to be appointed by the said commissioners of his majesty's treasury, to do or perform any part of the duty of any such receiver-general; and the several officers appointed or to be appointed by the said commissioners of his majesty's treasury, now or for the time being, or any three or more of them, for the survey and inspection of any of the said taxes; and all other persons appointed or to be appointed by the respective commissioners acting in the execution of the said acts, in the several counties, divisions, cities, towns, parishes, wards, and places, within England or Wales, shall severally and respectively observe and be subject to the rules and regulations set forth in this act, and the penalties therein contained; which rules and regulations shall be deemed a part of this act, as if the same had been severally inserted herein under special enactments."

Receivers and other persons to be appointed under this act, to observe the rules herein mentioned.

"No. I.—Rules and Regulations touching the Office of Receiver-General."

"First.—Every receiver-general to be appointed as aforesaid shall be entitled to such annual salary, payable half-yearly by equal portions, as the said commissioners of the treasury for the time being, or any three or more of them, shall

Salary to receiver-general not to exceed 600*l.* per annum.

3 Geo. 4, c. 88.

First appointment only liable to stamp duty.

Not to appoint a deputy without consent of Treasury, &c.

Route for receipt of taxes.

Allowances for travelling expenses.

When an office is required to be kept, an additional salary, &c., allowed.

Proviso.

Treasury may authorize contracts with persons to receive and remit monies.

Receivers not remitting, to pay monies to person appointed.

appoint, not in any case exceeding the sum of 600*l.* per annum, to be allowed to him out of any monies in his hands of the said taxes, by virtue of the warrant of the commissioners for the affairs of taxes for the time being, or any two or more of them."

"Second.—Every receiver-general to be appointed as aforesaid shall be, on his first appointment, charged with the stamp duty payable by law on the bond to be given in such case, and every renewed or succeeding appointment of the same person shall be free of stamp duty; but such receiver-general shall not be required to renew his bond under each or any new or succeeding appointment, except in the case of any change in his security, or under circumstances that may render any such renewed bond necessary, under the directions of the said commissioners of the treasury, which renewed bonds shall also be free of stamp duty; and such receiver-general shall not in any case be liable to or charged with any fee or gratuity on his commission, warrant, or other instrument to be obtained or had, either on his first appointment or on any renewed or succeeding appointment to the said office, nor to any fee or gratuity for any matter or thing incident to the execution of his office, or for auditing or passing his accounts either in his majesty's Treasury, the Office for Taxes, or in any office of the Court or Receipt of Exchequer."

"Third.—Every receiver-general to be appointed as aforesaid shall execute the duties of the said office in person, without any deputy or deputies, unless he shall be required or authorized, in cases of illness or other temporary or sufficient cause, to appoint a deputy or deputies with the approbation of the said commissioners of his majesty's Treasury, by the commissioners for the affairs of taxes."

"Fourth.—Every receiver-general to be appointed as aforesaid shall attend at such places, and observing such route in proceeding from place to place, for the receipt of the said taxes from the several collectors of the parishes, wards, or places within the limits assigned to him, and at such times, and from time to time, as shall be settled with him, and approved by the commissioners for the affairs of taxes: provided always, that it shall be lawful for the said commissioners of his majesty's Treasury, or any three or more of them, to allow every such receiver-general an allowance not exceeding 2*s.* per mile, and one guinea per day, for his travelling expenses when absent from home upon his quarterly or half-yearly receipt; and also a like allowance if travelling upon an extraordinary occasion, by the direction of the commissioners for the affairs of taxes: provided also, that whenever the said commissioners of the Treasury shall require any receiver-general to keep open an office daily or weekly, or on two or more days in each week, except Sundays and Christmas Day, for the receipt of the taxes of his district or any part thereof, it shall be lawful for the said commissioners of the Treasury to assign an additional salary and allowance for the expenses incident to his said office, over and above the salary and allowance herein limited, to be paid out of the said taxes in manner hereinbefore directed: provided always, that an account of the salaries, allowances, or other emoluments, in any manner accruing to the receivers-general of the taxes under this act, shall be annually laid before both houses of Parliament within twenty days after the meeting thereof."

"Fifth.—It shall be lawful for the said commissioners of the Treasury to contract or to authorize the said commissioners for the affairs of taxes to contract with any receiver-general, or any other person or persons, to remit the taxes collected and received, and paid to the receiver-general or his deputy, authorized as aforesaid, to be by such person or persons paid, or caused to be paid, into the receipt of his majesty's Exchequer at Westminster, at such time or times, and in such manner, as shall be specified in such contract; and also to contract in like manner with the same, or any other person or persons, to receive from the collectors residing within the limits specified in their respective contracts, all such taxes as shall remain in the hands of any collector or collectors, or shall have been collected by him or them since the last circuit of receipt of the receiver-general or his deputy, or to be collected by any collector or collectors aforesaid, at any time or times in the same or succeeding quarter of the year after the last half-yearly circuit of receipt, by any receiver-general or his deputy, upon such terms and conditions as shall be specified in such contracts respectively, of which contract or contracts the respective commissioners shall have notice, and from time to time shall make such order or orders for the payment of the monies from time to time collected or received by the respective collectors aforesaid, as by this act is directed."

"Sixth.—It shall be lawful for ever receiver-general who shall not contract to

remit the taxes by him received into the receipt of his majesty's Exchequer, under the regulations prescribed by the said commissioners of his majesty's Treasury, to pay over the same to such person or persons as shall be authorized as aforesaid to pay the same in the receipt of Exchequer, and who shall attend such receiver-general for that purpose; and the receipt of such authorized person or persons, in duplicate, shall be a full discharge and acquittance to such receiver-general; and the first of every receipt in duplicate so given shall be transmitted to the commissioners for the affairs of taxes; and the second of every such receipt shall remain with the said receiver-general as his voucher in passing his accounts; and every such receipt shall be free of stamp duty."

3 Geo. 4, c. 86.

"Seventh.—Whenever any receiver-general shall be required to keep open daily or weekly (except as before excepted) an office for the receipt of taxes within his district, it shall be lawful for such receiver-general, and he is hereby required, to fix the day or days for receiving the same from each collector whose place of residence shall be within ten miles of the said office, according to such course, order, and rotation, as shall be approved by the commissioners for the affairs of taxes, or any three or more of them; according to which rotation every such collector shall attend to make his payment, so that each such collector may attend four or a less number of days in each quarter of a year, or quarterly, as the commissioners of the district shall think expedient, and shall certify to the commissioners for the affairs of taxes according to the said course, order, and rotation; of which day or days of payment due notice shall be given to the respective commissioners acting in the execution of the said acts and this act; and where the residence of any collector or collectors within the district of any such receiver-general mentioned in this rule shall not be within the distance before mentioned, the receipts of the monies from time to time collected by them shall be held by the deputy of such receiver-general, in the manner prescribed in this act in regard to other districts."

Receivers keeping daily or weekly offices, may appoint particular days of receipt by collectors.

"Eighth.—All bonds, contracts, and securities, to be entered into with or taken from the receivers-general to be appointed, or with or from any other person or persons to be appointed under this act, and their respective sureties, to remit the monies arising by the taxes granted by the said acts, or any of them, or any other duties or sums of money under the management of the commissioners for the affairs of taxes, shall be to his majesty, his heirs and successors, and entered into with and taken by the commissioners for the affairs of taxes, and shall be filed and kept in the office of the said commissioners; and no such bond, contract, or security, shall be entered or filed at any of the offices in the Court of Exchequer, unless and until it shall be necessary to be made matter of record for the purpose of suing process at law in the said Court of Exchequer at Westminster, for the recovery of any penalty forfeited thereon, or any debt or duty owing thereon or against the person and effects of the parties bound thereby, their heirs, executors, or administrators respectively; in which cases the commissioners for the affairs of taxes shall cause the same to be delivered into the office of the king's remembrancer of the said court; and such delivery shall be deemed and be as valid and effectual as if the bonds, contracts, and securities, had been taken in one of the said offices, according to the course or practice of the said court heretofore used, to all intents and purposes whatsoever; and shall be applied and made use of in such and the like manner, in any suit, action, or process of law, on the said bonds, contracts, or securities, as if the same had been from the caption thereof respectively filed in the said court."

Bonds, &c., to be to his majesty.

"No. II.—Rules and Regulations respecting the said Office, in relation to Assessed Taxes."

"First.—Every receiver-general to be appointed as aforesaid, and his deputy or deputies, except as after mentioned, authorized under this act, shall and is hereby respectively empowered and authorized, at the respective times appointed by the said acts and this act for the delivery of schedules of defaulters, to administer an oath to every such collector (or being a person called a Quaker, a solemn affirmation), that he or they hath or have fully paid all the sums by him or them collected or received of or for the assessed taxes, and hath or have fully accounted for all sums not collected or received, in the schedule or schedules then delivered, and shall true answer make to all such questions as shall be demanded of him; and it shall be lawful for every receiver-general, or his deputy or deputies, authorized under this act, at the time of delivering such schedule or schedules, to examine each collector on any matters touching the sums collected and the sums in arrear, and the substance of the answer or answers which any collector shall

Receivers may examine collectors on oath.

Answers signed by collectors.

3 Geo. 4, c. 68.

Collectors to account quarterly.

Receivers may report failures, &c., of collectors to the commissioners.

Proceedings by commissioners thereon.

Collectors to produce assessments to receivers, showing sums collected.

Collector neglecting his duty herein.

Penalty, 50*l*.

give on such examination, shall in his presence be reduced into writing, and read to him, with liberty to alter and amend the same in any particular; and every such collector shall write or sign his assent to the same, in his own handwriting or sign, and in his usual manner of writing or signing the same."

"Second.—Every collector residing within ten miles of an office for the daily or weekly receipt of the said taxes, to be established pursuant to this act, shall once in every intervening quarter of a year, when required by the receiver-general of the district where such office shall be, account with the said receiver-general, and on his oath or affirmation be examined by such receiver-general, in the manner directed by the preceding rule, unless the accounts of the monies of the said taxes respectively received by such collector shall have been previously examined by the commissioners of the district, and the amount to be then paid to the receiver-general shall have been certified under their hands, and the certificate thereof delivered to the said receiver-general, as directed by this act."

"Third.—It shall be lawful for every such receiver-general, or his authorized deputy, as aforesaid, whenever he shall see occasion, to report to the commissioners acting in the execution of the said acts and this act, in any matter or thing touching the conduct of any collector or collectors aforesaid; and in every case where there shall be a failure of assessing or charging the duties in any parish, ward, or place, parishes, wards, or places, or of raising or paying the several sums respectively charged on any person or persons chargeable in such parish, ward, or place, parishes, wards, or places, or in the making out or returning any duplicates of assessments by their clerk, or of doing any other act required by the acts relating to the said taxes or by this act, to be done by such clerk, stating therein the particulars of his complaint against such collector or collectors, or other person or persons acting as aforesaid, and what in his opinion ought to be done therein; and whenever any receiver-general, or his authorized deputy, shall have reported to the commissioners acting for any parish, city, town, or place, or any ward or other division, any matter or thing which in the opinion of such receiver-general, or his authorized deputy aforesaid, shall require the particular consideration of the said commissioners, it shall be lawful for them, and they are hereby required, to summon a meeting within a reasonable time after such report; of which meeting the receiver-general, or his authorized deputy aforesaid, shall have notice, and may and shall attend thereat, and assist in the consideration of the measures necessary and expedient to be taken in the execution of the said acts and this act."

"No. III.—Rules and Regulations respecting the Office of Collector of Assessed Taxes."

"First.—At each quarterly or half-yearly receipt of any receiver-general as herein mentioned, to be held next after the 10th day of October and the 5th day of April in each year, pursuant to the directions of this act, all and every the collectors and collector of the assessed taxes or the monies arising by compositions for assessed taxes, within the jurisdiction of such receiver-general, shall bring with him and produce to the receiver-general, or his deputy, the duplicate or duplicates of assessment, showing the respective sums by them or him collected and received, duly written off in the said duplicate or duplicates, or instead thereof, a certificate signed by two or more of the commissioners of the district, stating the several sums collected and received, and the sums to be paid to the receiver-general or his deputy at the ensuing receipt, together with a full and true account, in writing, signed by such collectors or collector, in their or his usual manner of writing or signing their or his christian and surnames or name, of all sums of money by them or him collected for that year of assessment, and on his oath or solemn affirmation aforesaid, true answer make to all such lawful questions as the said receiver-general or his deputy shall there demand of them or him touching the assessed taxes; and if any collector of the assessed taxes shall at any such half-yearly receipt neglect or refuse to bring with him and produce such duplicate or duplicates of assessment, showing the respective sums collected or received in manner aforesaid, or instead thereof a certificate, signed by the commissioners of the district aforesaid, together with an account in writing, signed by such collector in manner before directed, or shall refuse to take the oath or affirmation aforesaid, or to answer any lawful question or questions demanded of him by such receiver-general, or deputy authorised as aforesaid, or shall declare, in any answer by him made, any matter or thing which shall be false, every such collector shall forfeit and pay the sum of 50*l*. to be sued for and recovered as any penalty may be sued

for or recovered under the acts relating to the said taxes or any of them, together with all costs and charges attending the recovery thereof." 3 Geo. 4, c. 88.

"Second.—Whenever any sum or sums of the monies collected and received under the authority of the said acts shall be detained in the hands of any collector or collectors, and shall not be duly accounted for to the receiver-general or his deputy at the receipt to be holden next after the same shall have been collected or received by him or them; and whenever any sum or sums of the arrears of taxes and monies so collected or received shall be ordered to be paid by the respective commissioners of the district acting in the execution of this act, and shall not be paid on the day so ordered, every such collector shall forfeit and pay the sum of 50*l.* and a further penalty at the rate of 5*l.* per centum per annum for the whole sum by him detained; and the amount of the said penalties shall be sued for and recovered in the manner hereinbefore directed, with all costs and charges."

Collectors not paying over monies.

Penalty.

"Third.—If any collector of the said taxes shall, from and after the passing of this act, advance or lend to any person or persons any of the monies so by him collected or received, or if any such collector shall pay or apply any monies or any part of the said monies to his own use or purpose, or shall deposit or deliver over the same to any person or persons, so that the full sums or any part thereof to be raised under the said acts, according to the tenor and effect thereof, shall be withheld and not be paid to the receiver-general at the times on which the same ought to be paid according to this act, every such collector shall for every such offence forfeit and pay the sum of 50*l.* with all costs and charges, to be recovered in manner last aforesaid."

Collector using public money.

Penalty, 50*l.*

"Fourth.—All schedules of defaulters to be delivered after the passing of this act, by any collector or collectors of the said taxes and composition monies, or any of them, shall be delivered to the several receivers-general, or their authorized deputies, on their receipt, after the 10th day of October and the 5th day of April, yearly; and at the time of such collector or collectors attending the receiver-general with an affidavit subscribed on the oath or affirmation of the collector or collectors in the manner directed by the said acts, and which oath or affirmation the said receiver-general, or their respective authorized deputies, are hereby respectively authorized to administer and subscribe; and any collector, neglecting to deliver any such schedule, duly verified as aforesaid, to such receiver-general or his deputy at the time, and on his receipt aforesaid, shall be subject to the like process as is provided for neglecting to deliver schedules under the said acts relating to the assessed taxes, and all such schedules respectively shall be delivered by such receiver-general or his deputy, to the respective commissioners, to remain in their hands during the same time as is allowed by the said acts relating to assessed taxes."

Schedule of defaulters to be delivered by collector to receiver-general.

Collector neglecting his duty herein.

Proceedings.

"Fifth.—Every bond or other security to be given after the passing of this act, by the collector or collectors of the land-tax, to the respective commissioners acting in the execution of the act relating to the said tax, shall be free of any stamp duty whatever."

Bond given by collector free from duty.

"Sixth.—Every collector shall receive from the receiver-general the poundage allowed to him under the said recited acts, unless the said commissioners of his majesty's treasury shall direct all or any portion of such poundage to be discontinued, and which the said commissioners are hereby authorized to do from time to time, and in such manner as shall appear to them expedient for the better execution of the provisions of this act."

Poundage to collector.

"No. IV.—Rules and Regulations respecting the Offices of other Persons acting in the Execution of the said Acts."

"First.—It shall be lawful for the several commissioners acting in the execution of the said recited acts and of this act, in their respective divisions, and they are hereby required, whenever they shall have received notice, as directed by this act, of any receipt to be holden by the receiver-general of the monies collected and received within the limits of the district of the said commissioners respectively, and on or immediately before the day or days of receipt to be so holden, to call before them the respective collectors appointed for each parish or place, and to examine him or them upon solemn oath or affirmation, and assure themselves of all and every of the sum or sums of money and arrears of the said duties and compositions respectively that shall have been collected, or remain to be collected, and which shall be payable to the said receiver-general or his deputy, or such other person or persons as shall be authorized to receive the same under this act, at such ensuing receipt, and to make such order therein for the payment of the same to the receiver-general or his deputy, or other person or persons aforesaid, as they shall

Commissioners may call collectors before them previous to each receipt, and make orders for subsequent payments;

3 Geo. 4, c. 68.
and give certificate to collector of payment to be made by him.

Certificate, &c., entered.

Books of assessments made up.

Proceedings thereon.

Commissioners empowered to seize and sell estates of collectors making default.

Notice of meeting for that purpose.

Proceeds of sale, how disposed of.

Commissioners may convey the estates so sold.

judge necessary; and the said commissioners shall thereupon cause to be delivered to every such collector a certificate of the sum to be so paid to the said receiver-general or his deputy, or other person or persons aforesaid, together with their order for the payment of such sum or sums as aforesaid, under the hands of the said commissioners, or any two of them, and which certificate shall be delivered by every such collector to the receiver-general or his deputy, or other person or persons aforesaid, at the time of his attending to make such payment of the monies by him collected and received; and the said commissioners shall enter every such certificate and order in a book, to be by them provided for that purpose; and it shall be lawful for the inspector and surveyor acting for the district of the said commissioners, at all convenient times, to inspect the said book, and take such extracts therefrom as shall be required by the said commissioners for the affairs of taxes."

"Second.—Whenever the respective commissioners shall have signed and allowed any assessment of assessed taxes, and the days to be appointed for hearing appeals therefrom shall have elapsed, the clerk to the said commissioners shall cause to be numbered the pages in each book of assessment, and the sums assessed in each page to be duly cast up; and they shall forthwith, and before the next ensuing receipt for the said taxes, transmit to the receiver-general of the district, or his deputy, the total amount of the sum to be paid to such receiver-general by and for each parish, ward, or place in the respective districts, together with the names of the collectors appointed to collect and receive the same."

Sect. 3. "That if any collector or collectors of the said duties and sums of money aforesaid, or any of them, shall neglect or refuse to pay any sum or sums of money which shall be by him or them received as aforesaid, as in and by the said several acts, or by this act, is directed, and shall detain, in his or their hands, any money received by him or them, and not pay or account for the same in manner directed by the said acts or this act, the commissioners acting in the execution of the acts relating to the said duties, or any two or more of them, in their respective districts, are hereby authorized and empowered to imprison the person, and seize and secure the estate, as well freehold as copyhold, and all other estate, both real and personal, of such collector or collectors, to him or them belonging, or which shall have descended or come into the hands or possession of his or their heirs, executors, administrators, or assigns, wheresoever the same can be discovered and found; and the said commissioners who shall so seize and secure the estate of any collector or collectors, or any two or more of the commissioners acting as aforesaid in the same district, shall and are hereby empowered to appoint a time for a meeting of the commissioners for such division, city, town, or place, and then to cause public notice to be given of the place where such meeting shall be appointed, ten days at least before such meeting; and the commissioners of such division, city, town, or place, present at such meeting, or the major part of them, in case the accounts of such collector be not duly delivered, or the monies detained by any such collector or collectors be not paid or satisfied, as ought to be done, according to the directions of the said acts or of this act, shall be and are hereby empowered and required to sell and dispose of all such estates which shall be, for the cause aforesaid, seized and secured, or any part of them, to satisfy and pay into the hands of the receiver-general the sum that shall not be so accounted for, or shall be so detained in the hands of such collector or collectors, their heirs, executors, or administrators respectively, together with the reasonable costs and charges of recovering, raising, and paying the same, which costs and charges shall be ascertained and settled by the said commissioners, and the overplus (if any) shall be restored to the collector or collectors, or the person or persons entitled thereto."

Sect. 4. "That any two or more of the commissioners acting for the division in which the estate and effects of such collector or collectors shall be seized and secured as aforesaid, shall be, and are hereby authorized and required to make conveyance of all such freehold and copyhold estates respectively; and in like manner to assign the leasehold and other personal estate of such collector, and all his right, title, or interest therein, at the time of such seizure, or at the time of the death of any collector so dying in default as aforesaid, to the respective purchasers thereof respectively, by deed indented between any two or more of

the said commissioners; and such sales and purchases respectively shall be as effectual and valid, to all intents and purposes, against such collector, his heirs, executors, and administrators, and all persons claiming under such collector, in like manner as the sale of bankrupts' estates of the like nature, under and by virtue of the statute relating to bankrupts, or any of them, may be made by deed indented or enrolled, or by deed of assignment, according to the several natures of such last-mentioned estates: provided always, that such person or persons to whom any such sale of copyhold lands shall be made, shall in like manner as the purchaser of the copyhold estates of bankrupts, before such time as he or they, or any of them, shall enter or take any profit of the said lands or tenements, agree and compound with the lords of the manors of whom the same shall be holden, for such fines or incomes as heretofore hath been most usual and accustomed to be yielded or paid therefore; and that upon every such agreement or composition, the said lords for the time being, at the next court to be holden at or for the said manors, shall not only grant to the said vendee or vendees, upon request, the same copyhold or customary lands or tenements by copy of court-roll of the same manors, for such estate or interest as to them shall be so sold, and reserving the ancient rents, customs, and services, but also in the same court admit them tenants of the same copyhold or customary lands, as other copyholders of the same manors have been wont to be admitted, and to receive their fealty, suit, or service, according to the custom of the court of such manor."

2 Geo. 4, c. 88.

Purchasers of copyhold to compound with lords of manors for fines, &c.

Sect. 5. "That the several and respective persons who, for the time being, shall be commissioners for putting in execution the acts relating to assessed taxes and to the land-tax respectively, shall be commissioners for putting in execution this act, and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places in Great Britain; and the several collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put into execution the said acts, shall respectively be collectors, surveyors, inspectors, and inspectors-general, to put in execution this act, within the limits of their respective divisions, districts, and places, to which they are or shall be appointed; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for putting this act in execution, in the like and in as full and ample a manner as they or any of them are or is authorized to put in execution the said acts, and all and every the powers and authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things, contained in any of the said acts (except where such provisions are varied, or other provisions are substituted by this act), shall, in collecting, levying, and accounting for the said duties and monies respectively, be severally and respectively duly observed, practised, and put in execution throughout Great Britain, in relation to all and every the duties and monies aforesaid, as fully and effectually, to all intents and purposes, as if the same powers, authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things, were particularly repeated and re-enacted in the body of this act, and applied to all and every such duties and monies aforesaid, as part of the provisions of this act."

Commissioners of assessed taxes and land-tax to be commissioners to execute this act.

Sect. 6. "That every appointment of clerk to the commissioners for executing the acts relating to the land-tax, shall be made for the term and under the rules and regulations for the appointment, continuance, and removal of a clerk to the commissioners for executing the acts relating to the assessed taxes, as is provided by an act passed in the forty-third year of the reign of his late majesty King George the Third, intituled, 'An Act for Consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for Amending the same.'"

Appointment of clerk to the land-tax to be under the provisions of assessed tax-acts, 43 Geo. 3, c. 90.

Sect. 7. "That from and after the passing of this act, in every case where any account of a receiver-general of land or assessed taxes, to which any bond now or hereafter to be entered into to his majesty, filed of record in the Court of Exchequer, or to be taken by the commissioners for the affairs of taxes under the provisions of this act, shall relate, has been, or shall be stated and passed

Bonds of receiver-general to be delivered up on accounts being balanced.

3 Geo. 4, c. 88.

Certificate of account settled delivered to receiver-general, and by him to the Exchequer.

The office of certain receivers-general discontinued on the events herein mentioned.

Regulation for enrolling the accounts of receivers-general in the King's Remembrancer's Office only.

† Sic in act. Such accounts may be enrolled in the Lord Treasurer's Remembrancer's Office, and the Pipe Office, in particular cases, as required by 1 & 2 Geo. 4, c. 131.

Compensation to officers of the Exchequer for use of fees.

in the office of the said auditors or their deputy, and have been or shall be declared before a baron of the Court of Exchequer, and no balance shall appear to remain due on such account from any such receiver-general, the said auditors or their deputy shall, as soon as conveniently may be after such declaration, cause a certificate thereof to be made out and signed by them or him, and the total amount of the sums forming the charge and discharge parts of the said account, with the words 'Even and Quit,' shall be inserted in such certificate, and delivered to the said receiver-general; and every such certificate so made out and signed as aforesaid, and delivered into or lodged by the said receiver-general in the office of the king's remembrancer in the Court of Exchequer, or in the office of the said commissioners, shall be a sufficient authority to the officers of the said court and to the said commissioners having the custody of the bond of the said receiver-general, for the year to which the said certificate shall relate, to deliver up such bond to the said receiver-general or to his authorized agent in that behalf, a receipt for such bond being indorsed on such certificate, and signed by the party receiving the same."

Sect. 8. "That upon the death, resignation, or removal of any one of the receivers-general whose names are set forth in the schedule to this act annexed, marked with the letter A., the office of such receiver-general shall be discontinued, and it shall be lawful for the said commissioners of the Treasury to consolidate the said vacant office with the office of the receiver or receivers of the rest of the county, or to add the same or any part or parts thereof to any adjoining district or districts of receipt, as the said commissioners of the Treasury shall think most beneficial to the collection of the said taxes."

Sect. 9. "That from and after the passing of this act, one part only of the accounts of every receiver-general to be hereafter passed, shall be made up and transcribed in the offices of the auditors of the said accounts, for the purpose of being presented for declaration before a baron of his majesty's Court of Exchequer, and which account shall be written on paper in the English language in common characters, and the several sums of money expressed therein shall be written and described in common numerals or figures; and every such account, after the same shall have been declared before a baron of the said court according to the usage thereof, shall be transmitted to the office of his majesty's remembrancer of the said court, and shall there be enrolled, as of record, in like manner in all respects as the part of any account transcribed on parchment hath heretofore been enrolled; and which enrolment herein directed shall be as valid and effectual for enabling the proceedings for the recovery of any balance and interest due or to become due thereon, and for all other purposes whatsoever in anywise concerning or relating to such accounts, as if the same had been also recorded in the offices of the lord treasurer's remembrancer and of the clerk of the pipe, according to the course of the Exchequer before the passing of this act: provided nevertheless, and† all and every the provisions contained in an act passed in the first and second years of the reign of his present majesty, intituled, 'An Act to alter and abolish certain Forms of Proceedings in the Exchequer and Audit Office, relative to Public Accounts, and for making further Provisions for the Purpose of facilitating and expediting the passing of Public Accounts in Great Britain, and to render perpetual and amend an Act passed in the Fifty-Fourth Year of his late Majesty, for the effectual Examination of the Accounts of certain Colonial Revenues,' so far as the same relate to the record and enrolment of any of the said accounts in the offices of the lord treasurer's remembrancer and of the clerk of the pipe respectively, in cases where such enrolments or records may be found necessary for the purposes in the said acts mentioned; and also so far as the provisions of the said acts relate to allowing compensation to the persons now holding the said offices of the lord treasurer's remembrancer and clerk of the pipe, for loss of fees or proportions of fees, in respect of enrolments of the receiver's accounts in the said last-mentioned offices, and of the effect of such enrolments; and also in respect of compensation to the said officers and to the king's remembrancer and other officers of the Court of Exchequer, for loss of fees or proportions of fees which they shall respectively sustain under the provisions of this act, shall and may be severally observed, practised, and followed, and applied to the

provisions of this act and in the execution thereof, to all intents as if the said several provisions of the said last-mentioned act had been re-enacted and incorporated in the body of this act, and particularly applied to the provisions of this act; anything hereinbefore contained to the contrary thereof in anywise notwithstanding."

Sect. 10. "That no receiver-general, or his authorized deputy, to be appointed under the provisions of this act, shall be required to travel in company with more than one person on each receipt respectively; and such receiver-general, or his authorized deputy, so travelling as last aforesaid, shall have the same remedies and advantages in his protection on his said receipt, to all intents, as if he had travelled in company with two or more persons, in the manner directed by the said acts; anything in the said recited acts contained to the contrary notwithstanding."

Sect. 11. "That this act may be altered, amended, or repealed, by any acts to be passed in this present session of Parliament."

3 Geo. 4, c. 88.

Receiver-general not required to travel in company with more than one person on each receipt.

Act may be altered, &c., this session.

"Schedule (A.) to which this act refers.

Berks	. . . . .	W. B. Simonds, E. Golding.
Bucks	. . . . .	G. R. Minshull, W. H. Hanmer.
Devon	. . . . .	J. J. Fortescue, Sir J. Duntze.
York	. . . . .	R. R. Milnes, R. Creyke.
Essex	. . . . .	R. Andrews, C. Round.
Kent	. . . . .	Sir William Twysden, G. W. H. D'Aeth.
Lancaster	. . . . .	G. Case, E. Falkner.
Lincoln	. . . . .	Sir R. Fyde, R. Claypon.
Norfolk	. . . . .	Sir R. J. Harvey, W. Fisher.
Northampton and Rutland	. . . . .	E. Boodle, John Beauchlerk.
Somerset	. . . . .	J. Allen, Hon. G. Poulett.
Isle of Wight	. . . . .	W. Hearn.
Suffolk	. . . . .	O. R. Oakes, D. E. Davy.
Surrey	. . . . .	R. Smith, T. Page.
Warwick	. . . . .	W. Little, C. Fetherston
Wills	. . . . .	W. Bowles, J. Awdry.
Monmouth	. . . . .	R. Lascelles.
Glamorgan	. . . . .	H. Hollier."

Forms.

Forms of Information, Summons, and Conviction, against a Collector of Taxes, for neglect of duty, on the 43 Geo. III. c. 99, s. 16, ante, p. 706, and 3 Geo. IV. c. 88, s. 2, No. III. First, and 5 Geo. IV. c. 23.

FORMS.

1. Information.

County of } The information and complaint of A. B., of
parish of } , in the county of } , Esq., made
on oath before us, E. F. and G. H., Esqs., two [or, me, I. K., Esq., one, &c. according
to the 3 Geo. IV. c. 23, s. 2] of the commissioners for executing in the said county
the several acts relating to the duties of assessed taxes, appointed to act as such com-
missioners [or, commissioner, as the case may be] in the district [or as the case may
be] of } , in the said county, on the } day of } , in
the year of our Lord one thousand eight hundred and } ; who says that
L. M., of the parish of } , aforesaid, [yeoman], being one of the collectors
of taxes duly appointed in and for the said parish of } , in the said
county, from the [fifth] day of [April], one thousand eight hundred and
to the [fifth] day of [April] following, and having taken upon himself the said office,
did neglect his duty as said collector; for that he, the said L. M., on, &c. [state
the facts complained of, following as nearly as possible the words of the statute,
which created the offence, and showing such offence], contrary to the statute in
that case made and provided; for which offence, and by which neglect of duty, he, the
said L. M., hath forfeited a sum not exceeding 20*l.*, to be distributed as the statute di-
rects. Whereupon the said A. B. prays the judgment of us [or, of two of], the said

1. Information.

FORMS.

commissioners of taxes in the premises, and that the said L. M. may be summoned to answer the premises before us [or, two of], the said commissioners.

Exhibited and sworn before us, E. F. and G. H.

A. B.

[or, me, I. K., as the case may be].

2. Summons thereon.

2. Summons thereon.

County of } To L. M., of , in the parish of , in the
 } county of

Whereas information and complaint have been made before me, I. K., Esq., one [or, if before two commissioners, say, us, E. F. and G. H., Esqs., two] of the commissioners for executing the several acts relating to the duties of assessed taxes, and appointed to act as such commissioner [or, commissioners, as the case may be] in the district of , [or as the case may be], in the said county, upon oath by A. B., of , within the parish of , in the county of , Esq., for that you, the said L. M., being one of the collectors of taxes duly appointed in and for the said parish of , from the [fifth] day of [April], one thousand eight hundred and , to the [fifth] day of April following, and having taken upon yourself the said office, did neglect your duty as such collector; for that you, the said L. M., on, &c. [here set forth the charge as in the information]; for which offence, and by which neglect of duty, you, the said L. M., forfeited a sum not exceeding 20l., to be distributed as the statute directs: these are to require you, the said L. M., to appear before me [or, us, as the case may be], and such other of the said commissioners for executing the said acts relating to the duties of assessed taxes as shall be present at , in , in the said county, on , the day of next, at the hour of in the [forenoon], to answer to the said information and complaint, and to be further dealt with according to law. Given under my hand [or, our hands, as the case may be], this day of , in the year of our Lord one thousand eight hundred and .

I. K.

3. Conviction.

3. Conviction thereon.

County of } Be it remembered, that on the day of , in the
 } year of our Lord one thousand eight hundred and , at
 } , in the county of , A. B., of , within the parish
 } of , in the county of , Esq., personally came before me,
I. K., Esq., one [if the information were laid before one commissioner, according to the 3 Geo. IV. c. 23, s. 2, to summon before two, or, if laid before two, say, us, two] of the commissioners for executing in the said county the several acts relating to the duties to assessed taxes, appointed to act as such commissioner [or, commissioners, as the case may be] in the district of , [or as the case may be], in the said county, and exhibited an information on oath before the said commissioner, [or, us, as the case may be], that L. M., of the aforesaid parish of [yeoman], being one of the collectors of taxes duly appointed in and for the said parish of , from the [fifth] day of [April], one thousand eight hundred and , to the [fifth] day of [April] following, and having taken upon himself the said office, did neglect his duty, for that he, the said L. M. [here set forth the charge as in the information], contrary to the form of the statute in such case made and provided: whereupon the said L. M., after being duly summoned to answer the said charge, appeared before us, E. F. and G. H., Esqs., two of the commissioners for executing the several acts relating to the duties of assessed taxes in the county and district aforesaid, on the day of instant, at , in the said county, [or, if he neglects to appear, the form must be varied accordingly, see title Convictions, Vol. I.]; and, having heard the charge contained in the said information, declared that he was not guilty of the said offence [or, if he pleads guilty, the form must be varied accordingly, see title Convictions, Vol. I.]; whereupon we, the said commissioners last named, did proceed to examine into the truth of the said charge contained in the said information, and on the day of , at the parish of aforesaid, one credible witness, to wit, N. O., of , in the said county, [labourer], upon his oath, deposeth and saith to and before us, in the presence and hearing of the said L. M., that, within months next before the said information was made before the said commissioner [or, commissioners, as the case may be] before named by the said A. B., to wit, on , the day of last, he, the said N. O. [here state the evidence, and as required by 3 Geo. IV. c. 23, as nearly as possible in the words used by the witness, and if more than

one witness be examined, state the evidence given by each; then state that the defendant was called upon for his defence, and state the same, and evidence if any]. Therefore, it manifestly appearing to us that he, the said L. M., is guilty of the offence charged upon him in the said information, we do hereby convict him of the offence aforesaid, and do declare and adjudge that he, the said L. M., hath forfeited the sum of 20*l.* of lawful money of Great Britain for the offence aforesaid, but which said penalty we have mitigated to [5*l.*], to be distributed according to the form of the statute in that case made and provided: that is to say, one moiety of the amount of the said penalty to the use of his majesty, and the other moiety to the said A. B., who informed the said commissioner [or, commissioners] of the said offence, to be paid to the said A. B. by the receiver-general for the said county of _____, and we do hereby assess the said sum of [5*l.*] upon the said L. M., and charge and require the same to be charged in the assessment of the said parish of _____, according to the directions of the statute, to be levied in like manner as the duties of assessed taxes; and which adjudication and assessment we do hereby certify to the commissioners of taxes, as the act directs. Given under our hands and seals, at _____, in the said county, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

E. F.

G. H.

II. The Acts regulating the Assessments and Collections, &c. (a)

[48 Geo. III. c. 141; 50 Geo. III. c. 105.]

These several provisions may be arranged under the following heads:—

1. *Of the Appointment of Assessors, and when Collectors may act in their Place.*
2. *Of Services of Notices.*
3. *Of Certificates of Assessment and Estimates.*
4. *Of Surcharges.*
5. *Of Account for Duties received.*
6. *Of the Inspectors-General.*

The 48 Geo. III. c. 141, s. 1, after reciting, that “whereas it is expedient that certain of the powers and provisions for assessing and collecting the duties under the management of the commissioners for the affairs of taxes in Great Britain, should be varied and amended in the particulars hereinafter mentioned,” enacts, “that from and after the period appointed for the commencement of the rules contained in this clause, all appointments of assessors shall be made, and also all notices required to be assessed on any place, or to be delivered to or served on any person or persons for the purpose of returning or estimating the said duties respectively, shall be affixed, delivered, or served, and all assessments of the said duties, or any of them, shall be returned, estimated, ascertained, and made, and the said duties shall be collected, levied, paid over, and accounted for, under and subject to the following rules and directions, which shall be deemed a part of this act, as if the said rules and directions had severally and respectively been inserted herein under a special enactment.”

Assessors shall be appointed, and duties assessed according to the following rules.

No. I.—Rules and Directions for appointing Assessors of the Duties under the Management of the Commissioners for the Affairs of Taxes, after the Expiration of the Year 1808.

“First.—It shall be lawful for the respective commissioners acting in the execution of the several acts relating to the said duties respectively, and they are hereby respectively required, to appoint assessors for each parish, ward, and place within their respective divisions, before the commencement of each year for which such appointment shall be made, and to do and complete all acts necessary to such appointment, so that the assessors to be appointed may enter on their office on the 6th day of April in each year, pursuing, in all other respects, the directions contained in the said acts respectively in relation to such appointments; which appointments shall be and continue for and during the year to commence on that day, and until other assessors shall be appointed for the same parishes, wards, and places, and for the same duties respectively.”

Assessors shall be appointed before the 6th of April, yearly.

(a) See general division of the subject, *ante*, p. 699.

49 Geo. 3, c. 141.

In default of such appointment, assessors for former years shall act.

In certain cases the collectors last appointed shall act.

Assessors liable to penalties for refusing to act.

In certain cases surveyors shall act.

Attendance of assessors to proceed in executing acts.

Surveyors shall deliver notice-papers to assessors.

"Second.—In and for every parish, ward, or place, wherein assessors shall not be appointed before the 6th day of April in each year, to serve for the year ensuing as aforesaid, the last appointment of assessors for the same parish, ward, or place (whether such appointment shall have been or shall be made under any of the acts in force at the time of passing this act, or under this act), shall continue in force until other assessors shall be appointed for the same parish, ward, or place, and for the same duties respectively, according to the directions of the said acts."

"Third.—In case the assessor or assessors appointed for any former year shall be dead, or be removed from, or be otherwise unfit or incapable to act for the parish, ward, or place for which he or they shall have been appointed, and in default of such appointment of assessors as aforesaid for the year ensuing for the same parish, ward, or place, and for the same duties respectively, then and in every such case the last appointment of a collector or collectors of the same duties for such parish, ward, or place (whether such appointment shall have been or shall be made under any of the acts in force at the time of passing this act, or under this act), shall continue in force until assessors shall be appointed for the same parish, ward, or place, and for the same duties respectively, according to the directions of the said acts; and every such collector shall, in every such case, during such continuance in his office of collector, do, perform, and execute all such matters and things as are directed by the said acts or this act to be done, performed, or executed by assessors; and all parts of the said acts or this act relating to and applied to assessors, shall in every such case be construed as applicable to, and be in like manner, and to the like intent, applied to such collectors; and the powers contained in the said acts or this act shall be as fully and amply exercised and practised by such collectors, as if the same powers had been expressly given to the said collectors by the said acts or this act."

Fourth.—All penalties imposed by any of the acts in force at the time of passing this act, on assessors, for refusing or neglecting to take upon themselves the office of assessor, or to perform their duty therein as prescribed by the said acts respectively, shall be in the like cases imposed on assessors appointed according to this act, for neglecting to take upon themselves the office of assessor, or to perform their duty as prescribed by this act; and every such collector as aforesaid, on whom the duty of assessor shall have devolved in pursuance of this act, shall be subject and liable to the like penalties for the like neglect of duty."

"Fifth.—In every parish, ward, or place, where assessors shall not be appointed in pursuance of this act, or being appointed shall not have taken upon themselves the office on or before the commencement of the ensuing year, or where the assessors or collectors for any former year on whom the duty of assessor shall have devolved, shall not have taken upon themselves the office of assessor on or before the commencement of such ensuing year, it shall be lawful for the surveyor of the district, and he is hereby required, to execute the duty of assessor for such parish, ward, or place, until assessors shall be appointed who shall duly take upon themselves the said office."

"Sixth.—In every notice of continuance in office of any assessor or collector, the respective commissioners who shall cause such notice to be given, shall require the attendance of such assessor or collector on a day and at a place within the division to be named in such appointment or notice, then and there to receive and take charge of all such notices and papers as shall be delivered to them respectively, for the due execution of the said acts, in manner herein-after mentioned, which day shall not be later than seven days after the 5th day of April in each year; and in default of such notice being given by such commissioners, it shall be lawful for the inspector or surveyor of the district to give such notice, and to require the attendance of such assessors or collectors on a day and at a place within the division to be named by the said inspector or surveyor for that purpose."

"No. II.—Rules and Directions for Service of Notices to Persons liable to be charged to the said Duties, or any of them."

"First.—All notices relating to the said duties, or any of them, requiring to be affixed on any place, or to be delivered to or otherwise served on any person or persons for the purpose of returning or estimating the said duties respectively, shall be delivered by the respective surveyors of the district in which such notices are required (or by the inspectors for the same districts, or by any other inspectors or surveyors of the same duties, duly authorized to take charge of such districts respectively, by or under the commissioners for the affairs of taxes, or any three

or more of them) to the respective assessors appointed or acting in pursuance of this act, or to the respective collectors on whom the duty of assessor shall have devolved as aforesaid, for the purpose of serving the same on the respective persons liable to the said duties, in the manner required by the said acts."

"Second.—All such notices shall be delivered to such assessors or collectors as aforesaid, on or as soon after the 6th day of April in each year as the same can be done; and the delivery of such notices by such inspectors or surveyors, or any of them, shall be as effectual as if the same had been delivered by the commissioners of the division according to the directions of the said acts."

"Third.—The said assessors and collectors respectively are hereby required to observe such directions as may from time to time be given to them by the said inspectors and surveyors, in all matters touching the time and manner of fixing or delivering or otherwise serving such notices, and the persons on whom the same are to be served, such directions having been previously seen and allowed by the commissioners acting for the division in which the said inspector or surveyor shall act."

"No. III.—Rules and Directions for making and returning the Certificates of Assessment, or Certificates of Estimates, by Assessors acting under the said Acts, and for making and collecting the First Assessments in each Year."

"First.—The assessors of the said respective duties shall deliver their certificates to the respective commissioners on or before the day which such commissioners shall appoint for that purpose yearly, which day so to be appointed for the delivery of the certificates of assessment of the duties of assessed taxes, shall not be later than the 20th day of June in each year of assessment; and the day to be appointed for the delivery of the certificates of estimates of property, or profits of professions, trades, and offices, shall not be later than the 20th day of July in the same year, on which days respectively the said assessor shall also deliver to the respective commissioners all the returns or statements relative to the said respective duties made to the said assessors before the respective days so appointed; and all the returns and statements made by the parties to be charged, which shall be delivered after that day, shall be delivered to the respective commissioners."

"Second.—In all cases relating to the duties of assessed taxes, where the assessor or assessors shall not have received any return from any person or persons liable to be charged to the said duties, it shall be lawful for such assessor or assessors, and he and they is and are hereby required, to make a true assessment on such person or persons, to the best of his or their information and judgment, of the real charge which ought to be imposed; and in all cases relating to the duty on property, professions, trades, and offices, where the respective assessors shall not have received any statement from any party or parties liable to be charged to the said duties, it shall be lawful for the said assessor or assessors to estimate the property of such parties respectively, and the profits arising from any professions or trades exercised, or any offices held by such parties respectively, according to the best of his or their information and judgment; and in case the said assessor or assessors shall not so estimate the property or profits of any such party or parties who shall not have made a return for that year, then such assessor or assessors shall return to the said commissioners the name and place of residence of every such party; and where the respective commissioners shall also not have received any statement, it shall be lawful for the said respective commissioners to make an assessment on such party or parties either in the same sums respectively, and to the same amount, as the said parties respectively were charged in the last assessment of the said duties for the said division, or according to the best of their judgment, subject to alteration by appeal or surcharge, in the manner directed by the acts relating to the said duties."

"Third.—The first assessments to be made of the said duties or any of them, for any year, shall be made according to the estimates or returns and assessments mentioned in the preceding rule, without including therein any matters of surcharge by the inspectors or surveyors; which first assessments respectively shall be separately and distinctly collected, and shall be contained in the first duplicates to be delivered to the collectors and surveyors for that year, and shall be collected and levied in moieties on the days hereinafter mentioned; that is to say, one moiety of the duties of assessed taxes, if not sooner paid or satisfied according to the directions of the said acts respectively, shall be collected or levied before the 10th day of October, in each year of assessment, or within twenty-one days thereafter, and the other moiety thereof before the 5th day of April following, or within twenty-one days thereafter; and one moiety of the duties on property, professions,

Time of delivery.

Assessors and collectors shall observe the directions of inspectors and surveyors.

Time of delivering certificates of assessment.

For making assessments in default of return.

First assessment shall be made without including matters of surcharge.

Times of collection.

48 Geo. 3, c. 141.

trades, and offices, if not sooner paid or satisfied as aforesaid, shall be collected, levied, or paid before the 5th day of January in each year of assessment, or within twenty-one days thereafter, and the other moiety thereof before the 5th day of July following, or within twenty-one days thereafter: provided always, that nothing herein contained shall be construed to alter the times or proportions at which the said duties are payable, according to the directions of the said acts respectively, or in any way to impeach or affect the powers or provisions of the said acts for the recovery of the said duties at such times and in such proportions as are therein prescribed, and the said respective duties shall be deemed payable quarterly at the times mentioned in the said acts, by four instalments; and it shall be lawful to demand, receive, or levy the same according to the said acts, anything herein contained to the contrary notwithstanding."

Time of delivery
of duplicates of
first assessments.

"Fourth.—In order that due time may be given for hearing appeals against such first assessments, the respective commissioners are hereby required and strictly enjoined to deliver, in all cases relating to the duties of assessed taxes, their first duplicates thereof to the respective collectors on or before the 20th day of July in each year, with directions to cause public notice thereof to be given in the parish, ward, or place to which such duplicates relate, to which duplicates in the hands of such collectors all persons interested shall have access, and may examine the same at any reasonable time in the day-time; and in all cases relating to the duties on property, professions, trades, and offices, the respective commissioners shall, as and when they shall make an assessment on any person or persons, cause a notice thereof to be given in the manner directed by the acts relating to the said last-mentioned duties, to the party or parties charged in and by such assessment within the space of three days after making such assessment, and so from time to time, until all such assessments shall be made, in which certificates shall be inserted the times limited for hearing the appeals therefrom."

Regulating ap-
peals, as to the
time of entering
them.

"Fifth.—All appeals against such first assessments shall be entered, and due notice thereof be given within the respective times hereinafter limited; that is to say, in all cases relating to the duties on assessed taxes, within twenty-eight days after the delivery of the duplicates of the first assessments to the respective collectors of the parishes, wards, or places, for which such assessments shall be made; and in all cases relating to the duties on property, professions, trades, and offices, within fifteen days after the date of the notice of such first assessment, to the party or parties charged therewith."

Time of hearing
appeals.

"Sixth.—All appeals against such first assessments of the duties of assessed taxes, in any year, shall be heard and determined between the 20th day of August and the 10th day of September following; and on such day or days, within the time herein limited, as the commissioners of the division shall appoint, whereof they are hereby required to give notice in the manner in which such notices have usually been given in the several parishes, wards, and places in their division; and all appeals against such first assessments of the duties on property, professions, trades, and offices, in any year, shall be heard and determined as soon after notice thereof shall be given to the respective commissioners as conveniently can be done, and for that purpose the said respective commissioners, or two of them at the least, shall meet together within eight days after any such notice of appeal shall have been received by them, and so from day to day or from time to time, at reasonable intervals, with or without adjournment, until all appeals against such first assessment shall be heard and determined, of which day or days of appeal the said respective commissioners shall cause notice to be given to the respective appellants; provided always, that in every case where the party assessed shall be prevented from appealing within the time herein limited, or from attending in person at the time limited for hearing the appeal of such party by absence or sickness, or other sufficient cause, to be proved before the respective commissioners on the oath or solemn affirmation of the party, it shall be lawful for the respective commissioners to enter such appeal after the time herein limited, or to postpone the hearing thereof for such reasonable time as shall be necessary, so that no delay shall be thereby occasioned in the payment or collection of the sums contained in the said first assessment."

Time of deliver-
ing duplicates of
first assessment.

"Seventh.—The said respective commissioners shall cause to be delivered to the respective collectors their duplicates of the first assessment, including in such duplicates, as well all such matters as have been appealed against and determined by the said commissioners, as all such matters as have been assessed and not appealed against; and all such duplicates shall be delivered within the respective times hereinafter limited; that is to say, the duplicates of the duties of assessed taxes on or before the 20th day of September yearly, and the dupli-

cates of the duties on property, professions, trades, and offices, on or before the 20th day of December yearly, to which duplicates respectively warrants shall be annexed for collecting the duties therein contained, within the times respectively before prescribed."

"Eighth.—All such assessments which shall not have been made on or before the 20th day of September, in respect of the duties of assessed taxes, and the 20th day of December, in respect of the duties on professions, trades, and offices, or against which any appeal shall be depending on those days respectively, shall, on the making or determining the same from time to time, be added to such first assessments and to the respective duplicates thereof; and the duties therein, or the moieties thereof which ought to have been previously collected or paid, shall be collected, levied, or paid, on or before such day or days as the respective commissioners shall order by their warrant annexed to the duplicates of such added assessments, such day not being later than twenty-one days after the making such assessment, or determining the appeal thereon."

Cases not then determined to be added to first assessment.

"Ninth.—Whenever any assessment of the duties on professions or trades shall be made within the time herein limited, under a number or letter the same shall be included in, or from time to time added to such first assessments, and the said duties shall be paid either into the Bank of England, or to the receiver-general or his deputy, in the like proportions as aforesaid, on or before the day or days herein appointed for collecting such duties by the respective collectors, and the said commissioners shall direct and order the same to be paid accordingly; and in default of such payment the said respective commissioners shall cause the said assessments to be added to the duplicates in the hands of the respective collectors to whom the collection of the duties assessed on persons by name shall have been entrusted to be collected, by the same ways and methods, and under the like powers and provisions, as such last-mentioned duties are directed to be collected."

Assessment under a number to be added to first assessment, if not paid to receiver, or into the Bank.

"No. IV.—Rules and Directions for making and collecting the Supplementary Assessments in each Year."

"First.—If any inspector or surveyor shall have surcharged any person or persons for any matter or thing for which a surcharge is allowed by the acts relating to the said duties respectively, it shall be lawful for such inspector and surveyor to deliver his or their certificates of surcharge, explicitly stating the particulars in respect to which such surcharge has been made to the respective commissioners in respect of the duties of assessed taxes, at any time on or before the 15th day of December in each year of assessment for the whole of such year, and in respect of the duties on property, professions, trades, and offices, at any time after the time herein prescribed for making the first assessments of the said duties for that year, and from time to time until the commissioners shall have completed all the assessments of their division for that year, and shall have delivered, in the manner directed by the said acts, the duplicates thereof, and the same shall have been entered of record in his majesty's Exchequer, which certificates of surcharge shall be signed and allowed by two of the respective commissioners, under the restrictions, and subject to appeal under the conditions prescribed by the said acts respectively."

Time of making surcharges.

"Second.—All appeals against such surcharges relating to the duties of assessed taxes shall be heard and determined by the commissioners of the division, or any two or more of them, between the 20th day of January and the 20th day of February following; and all appeals against such surcharges relating to the duties on property, professions, trades, and offices shall be heard and determined according to the directions of this act before prescribed, in respect of appeals against the first assessments of the same duties by the respective commissioners: provided always, that in every case where the party surcharged shall have been prevented by absence or sickness, or other sufficient cause, to be proved before the respective commissioners on the oath or solemn affirmation of the said party, from appealing within the time herein limited, or from attending in person at the time limited for hearing such appeals, it shall be lawful for the respective commissioners to enter such appeal after the time herein limited, or to postpone the hearing thereof for such reasonable time as may be necessary."

Time of making appeals from surcharges.

"Third.—The said certificates of surcharge, amended according to the determination of the respective commissioners, shall be a sufficient authority to them, and they are hereby required, to cause supplementary assessments to be made out of the said duties respectively, including therein all matters so surcharged, as well such matters as have not been appealed against, as the matters determined by the said commissioners, which matters shall be severally charged to the said duties

Supplementary assessments to be made on the surcharges after appeals.

48 Geo. 3, c. 141.

respectively, according to the said certificates of surcharge, amended, in cases requiring amendment, according to the determination of the said commissioners, and also including therein the double duties or moieties, or parts thereof assessed, over and above the rates of duty prescribed by the said acts respectively, and also all fines and penalties imposed on any person or persons by the said respective commissioners within the year of assessment for offences committed against the said acts or this act; which double duties or moieties, or parts thereof, and penalties, shall severally and respectively be added to such supplementary assessments, and be collected therewith."

Supplementary assessments to be paid on the last instalment of the duties on the first assessments.

"Fourth.—The duties and sums of money contained in the supplementary assessments of each year, which shall be completed within the time herein limited, shall, if not sooner paid or satisfied according to the directions of the said acts respectively, be collected and levied at the respective times hereinbefore appointed for payment of the last instalment of the duties contained in the first assessments of the said duties respectively for that year; and each assessment thereof shall be collected, levied, or paid in one sum."

Assessments not completed within the time limited, shall be collected in one sum.

"Fifth.—In all cases where the said duties, or any of them, shall not have been ascertained and assessed before the respective days appointed by this act for payment for the last instalment thereof, the same respectively shall and may be assessed from time to time, until a complete assessment be made, and shall be collected, levied, or paid in one sum within twenty-one days after notice of the amount contained in the assessment thereof."

Penalty on vexatious surcharges, 100*l.*, &c.

"Sixth.—If any inspector or surveyor shall wilfully make any false and vexatious surcharge of any of the duties contained in any of the said acts, or shall wilfully deliver, or cause to be delivered, to the respective commissioners for executing the said acts or any of them, any false and vexatious certificate of surcharge of any of the said duties, every such inspector or surveyor shall be liable to forfeit to the party aggrieved any sum not exceeding 100*l.*, or treble the value of the sum claimed by such surcharge, over and above the rate of duty charged by the said acts respectively, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, for offences committed in England, and in the court of great sessions for offences committed in Wales, with full costs of suit; and it shall be lawful for the party aggrieved to sue either for the said penalty of 100*l.*, or for the said treble value under this act, at his or their election; and it shall also be lawful for the judge before whom such inspector or surveyor shall have been convicted of such offence in any such suit, either for the said penalty or treble value, or any part thereof, by indorsement on the postea, or for the court before whom such inspector or surveyor shall be convicted, by entry on the record, to certify his or their satisfaction with such conviction; and in every such case the said certificate shall be an authority to the commissioners for the affairs of taxes, and they are hereby required, to cause to be paid by the receiver-general of the county, riding, or division wherein such conviction was had, out of any monies of the said duties respectively in his hands, such reasonable expenses as the plaintiff shall have incurred, over and above the costs of suit as aforesaid, the amount thereof being certified by the proper officer for taxing costs of the court in which such suit shall be commenced, to have been necessarily expended, and allowed by such officer as between attorney and client; and every such inspector and surveyor shall, after such conviction, be discharged from his employment."

"No. V.—Rules and Directions for paying to the Receiver-General, and accounting for the duties received by the Collectors."

Collectors shall pay the duties on the next receipt, and account twice each year.

"First.—The several collectors shall pay to the receiver-general or his deputy, all monies of the said respective duties which the said collectors shall have received or levied, by virtue of any of the acts herein mentioned, on the respective days herein appointed for payment of the said duties or any of them, next after their receipt of the same, and shall, twice in each year, account with such receiver-general or his deputy in the manner hereinafter mentioned, for all such duties; that is to say, for the duties of assessed taxes, the said collectors shall pay or account for one entire moiety thereof on the day to be appointed next after the 10th day of October, and the remainder thereof on the day to be appointed next after the 5th day of April, in each year; and for the duties on property, professions, trades, and offices, the said collectors shall pay or account for one entire moiety thereof on the day to be appointed next after the 5th day of January in each year, and the remainder thereof on the day to be appointed next after the 5th day of July following; on which last-mentioned days appointed for payment to the said receiver-

general or his deputy, of the said respective duties, *videlicet*, on the day appointed next after the 5th day of April yearly, for the payment of the last moiety of the duties of assessed taxes, and on the day appointed next after the 5th day of July, yearly, for payment of the last moiety of the duties on property, professions, trades, and offices, the full and entire amount of duties, penalties, and sums of money contained in the said supplementary assessments of the said respective duties, shall also be paid to the receiver-general or his deputy, or accounted for to him or them in the manner hereinafter directed; for which payments, the said receiver-general or his deputy shall give to such collectors receipts in writing, distinguishing the amounts received for the duties on assessed taxes from the amount received for the duties on property, professions, trades, and offices, and from all other duties payable to his majesty, and for which receipts no stamp-duty shall be charged or chargeable, any statute to the contrary thereof notwithstanding: provided, that if any collector or collectors shall not at or before the respective times hereinbefore limited, have received or levied the said respective duties, or shall not then account to the receiver-general or his deputy for the same, in the proportions before directed, he or they shall deliver to the said receiver-general or his deputy, at the respective times appointed for such payments, or to the commissioners of the division, within three days after the respective times aforesaid, a schedule in writing, signed by such collector or collectors, containing the christian and surname of each defaulter, and the respective sums then in arrear from each such defaulter, with an affidavit subscribed, to be made on the oath or affirmation of the said collector or collectors (which oath or affirmation may be taken before any one commissioner of the division), that the several sums contained in the said schedule have been demanded from, and are due and wholly unpaid from the respective persons charged therewith, either to such collector or collectors, or to any other person or persons for such collector or collectors, to the best of his or their knowledge and belief."

46 Geo. 3, c. 141.

Receipts shall be given for each such payment.

In default of paying the full amount, a schedule of arrears shall be given.

"Second.—Every such schedule, being certified under the hand of the receiver-general or his deputy of the county or division where the said arrears accrued to the Court of Exchequer at Westminster, shall be received and taken as sufficient evidence of a debt due to his majesty, and shall be a sufficient authority to the barons of the said court, or any one of them, to cause process to be issued against such defaulter named in the said schedules, to levy the whole sum in arrear and unpaid by such defaulter; and the sheriff or other officer to whom the said process shall be directed, shall, without delay, cause the whole sum in arrear to be levied by due course of law as a debt to his majesty on record, with all costs and expenses attending the same, and shall pay the monies so levied, after deducting the said costs and expenses, to the said receiver-general or his deputy, and shall make return of the said process to the said court, according to the due course thereof: provided, that every such schedule shall remain with the commissioners of the division for the space of forty days before the certificate thereof shall be transmitted to such court, during which period of forty days every such collector shall give due notice of such schedule to the several defaulters named therein, in such manner as the said respective commissioners shall direct, on pain that every collector neglecting so to do shall forfeit the like penalty as is imposed on collectors by the said several acts, or any of them, in other cases of neglect of duty; and it shall be lawful for every such defaulter within the like period to pay his or her arrears to the said collector or collectors, whose receipt shall be a sufficient authority to the said commissioners to discharge the arrears so paid from the said schedule; and it shall also be lawful for the said commissioners, if they shall see cause, to issue fresh warrants to collect the said arrears, or any of them, within the said period of forty days, and during that period to use all or any the means or methods prescribed by the several acts relating to the said respective duties, for the recovery of the said arrears, or direct the said arrears to be levied by the respective collectors under their former warrant, as shall be most expedient; and all warrants to be issued for that purpose may be directed either to the said collectors, or to the high constable, constables, or other peace officers, within the limits of their division, or any one or more of them, or to any other person or persons whom the said commissioners shall think proper, with authority to levy by distress and sale, in the manner directed by the said acts respectively, the sums in arrear, together with all costs and expenses attending the said process and the execution thereof; and the sums so levied, after deducting the said costs and expenses, shall be paid to the receiver-general or his deputy, at such time and place as the said receiver-general shall appoint, and shall be discharged from the said schedule; and all high constables, constables, and other peace-officers, within the said division, shall act in obedience to the directions of the said commissioners, and shall exe-

Certificate of such schedule shall be ground of process.

Schedule shall remain with commissioners for a certain time, during which commissioners may levy warrants.

46 Geo. 3. c. 141

cute all such orders and process as shall be to them or any of them directed, for the recovery of the said arrears: provided, also, that when the commissioners of the division shall certify to the commissioners for the affairs of taxes any reasonable cause for non-payment of, or for not proceeding to levy any part of the said arrears included in the said schedule, and that they have good reason to believe the same will be paid within a reasonable time, to be stated in such certificate, it shall be lawful for the said commissioners of the division to retain the said schedule in their hands for such further time as shall be necessary, and as shall be mentioned in their aforesaid certificate."

In default of such schedule, receiver-general may certify the default to the Exchequer.

"Third.—In default of such schedule being delivered within the space of three days as aforesaid, either to the receiver-general or his deputy, or to the said commissioners, it shall be lawful for the receiver-general, to whom the payments of the said duties shall not have been made in the proportions herein prescribed, and at the times above mentioned, and he is hereby required to certify to the said Court of Exchequer the amount of the duties remaining unpaid, to the best of his knowledge and belief, and the particular ward, parish, or place, and the division where such failure hath happened, together with the names of the collectors of the said parish, ward, or place; and such certificate, under the hand of such receiver-general or his deputy, shall be a sufficient authority to the barons of the said court, or any one of them, to cause process by way of *distringas* to be issued out of such court against the said collector or collectors, upon which writ of *distringas* the sheriff or other officer to whom the said process shall be directed, shall return such issues from time to time as such court or baron shall order, until a return of such schedule and arrears shall have been made to the said court, and immediate process shall thereupon issue for levying the said arrears out of and under the seal of such court, which levy shall not be remitted unless all the said duties in arrear shall be paid or satisfied before the return of such process."

Surveyor shall attend receiver-general at his receipt.

"Fourth.—On each half-yearly day of payment, as herein is directed, the surveyor of the district shall, on notice thereof from the receiver-general or his deputy, attend with such of the duplicates of assessment as shall have been delivered to him, and as shall be required by the said receiver-general or his deputy, and shall assist him or them in adjusting the accounts of payments and of arrears, and shall also assist the collectors in making out their schedules of arrears to the best of his judgment."

Payment of duties to receiver-general, where the arrears have been levied.

"Fifth.—The duties contained in any schedule of arrears, as aforesaid, which shall be paid to such collector or collectors within the period of forty days before mentioned, or within such further period as shall have been stated in the certificate of the commissioners for the retention of such schedule as before mentioned, shall be paid over to such receiver-general or his deputy, at such time and place as the said receiver-general shall appoint."

Collectors advancing duties empowered to levy the sum paid.

"Sixth.—Whenever any collector or collectors shall have advanced and paid to the receiver-general or his deputy any sum of money for or on account of the duties assessed on any other person or persons, whether at his or their request or not, it shall be lawful for such collector or collectors, in default of repayment to him or them, at any time within the space of six calendar months after such payment, to levy the said duties by the like ways and methods as such collector or collectors might have levied the same before such payment thereof to such receiver-general or his deputy, and as if such duties had not been paid or satisfied."

Commencement of preceding rules, Dec. 31, 1808.

Sect. 2. "That this act, as to all matters contained in the rules of the preceding clause, shall commence and take effect from and after the 31st day of December, 1808, in respect of all assessments to be made for any year after the 5th da of April, 1809."

No list of any article surcharged shall be required, if proved to be returned before the date of the notice.

Sect. 3. "That in cases of surcharge under the said acts relating to the duties of assessed taxes, no list, affidavit, or oath shall be required of any article, matter, or thing which the party surcharged shall prove to the satisfaction of the commissioners of appeal to have been duly returned before the date of the said notice, in any list delivered by the said party for the year for which such surcharge shall be made: and either the said return, or a certificate thereof, signed by two commissioners of the division where the return shall be made, shall be received conclusively as proof thereof; and the return or returns required by the said acts shall be deemed full, perfect, and complete returns, if the amended return, together with the return before made, shall include all articles, matters, and things for which the party so surcharged shall be chargeable; and no person shall be liable to surcharge for any article, matter, or thing before returned

by him or her, according to the directions of the said recited acts or of this 48 Geo. 2, c. 141.
act."

Sect. 4. "That when the commissioners of any division shall have fixed the day or days of appeal against the surcharges made by any inspector or surveyor, under the said acts or any of them, and shall have caused due notice thereof to be given, according to the directions of the said acts, and the said inspector or surveyor, having like notice thereof, shall wilfully neglect to attend the meeting or meetings of the said commissioners, held in pursuance of such notices, whereby the commissioners shall be prevented in proceeding to hear such appeals, it shall be lawful for the said commissioners to allow to each appellant attending such meeting, a reasonable compensation for such attendance, to be settled by the said commissioners, and paid to such appellants respectively by the receiver-general of the said duties, or his deputy, on the production of the certificates of any two or more of the said commissioners, testifying such allowance."

Penalty on inspectors and surveyors neglecting to attend meetings of the commissioners.

Sect. 5. "That it shall be lawful to and for his majesty, his heirs and successors, or the lords commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, from time to time to constitute and appoint, for England and Wales, such person or persons, not exceeding ten in number at any one time, as his majesty, his heirs and successors, or the said commissioners of the treasury, or the high treasurer for the time being, shall think proper, to be inspectors-general for the special purposes of this act, hereinafter specified and declared; and to allow to such inspectors-general such reasonable salaries, charges, and expenses, as may be necessary for their pains in executing this act in the several particulars hereinafter mentioned; and no person to be appointed inspector-general under this act shall be entitled to amend any assessment made under the said acts, or to surcharge any person or persons in respect thereof: nor shall any such person have, or receive, or claim any advantage or emolument from any assessment or surcharge to be made under any of the said acts, nor any other emolument than the salary and allowance authorized by his majesty, the commissioners of the treasury, or the high treasurer as aforesaid."

His majesty or the treasury may appoint ten persons to be inspectors-general, and allow them salaries, &c.

"The Powers to be vested in the Inspectors-General."

"First.—It shall be lawful for such inspectors-general to visit from time to time each inspector and surveyor acting in the execution of the several acts relating as well to the duties of assessed taxes as the said duties on property, professions, trades, and offices, within the limits of the circuit for which such inspector-general shall be appointed, and to examine all or any of the books and assessments and duplicates, or certificates of assessment or surcharge, in the hands or power of such inspector or surveyor; and also to inquire into the conduct of every such inspector and surveyor in the execution of their respective offices, and into their fitness and capacity to execute the same, and to report from time to time on the several matters aforesaid to the commissioners for the affairs of taxes; and every such inspector and surveyor shall attend such inspector-general at such time and at such place, within the district of such inspector and surveyor, as the said inspector-general shall appoint, and shall have given three days' notice of, to such inspector or surveyor."

Their powers.

To visit inspectors and surveyors.

"Second.—It shall be lawful for every such inspector-general to administer to any such inspector or surveyor, whenever he shall see occasion to examine him or them in any matter touching the execution of the said acts, an oath that he shall true answer make to all such questions as shall be demanded of him; and the substance of such answer or answers as such inspector or surveyor shall give, shall in his presence be reduced into writing, and read to him, with liberty to alter or amend the same in any particular; and he shall sign his assent to the same in his own name, and in his usual manner of writing or signing the same."

To administer an oath to inspectors and surveyors.

"Third.—It shall be lawful for every such inspector-general as aforesaid, whenever he shall see occasion, to report to the commissioners of the division on any matter or thing touching the execution of the said acts or this act in relation to any assessment or assessments in such division, or touching the conduct of any clerk to such commissioners, or of any assessor or collector appointed under the said acts or this act, together with the opinion of such inspector-general thereon; and every such inspector-general shall transmit a duplicate of such last-mentioned reports to the commissioners for the affairs of taxes; and whenever any inspector-general shall have reported to the commissioners of any division any such matter

Inspector-general may report to commissioners of division.

48 Geo. 3, c. 141.

In certain instances a case may be transmitted to commissioners for taxes.

or thing which, in the opinion of such inspector-general, shall require the particular consideration of the commissioners of such division, it shall be lawful for them to hold a meeting for that purpose, and they are hereby required to hold such meeting within a reasonable time after such report, at which meeting such inspector-general may attend for the purpose of explaining the matter or matters contained in the said report, and of suggesting for their consideration the propriety of adopting such order or orders as may be agreed upon by the major part of the commissioners of such division who shall be present at such meeting."

"Fourth.—If any inspector-general as aforesaid, or any commissioner for the division, who shall have been present at any meeting of commissioners at which the report of such inspector-general shall have been taken into consideration as aforesaid, shall apprehend the determination made by the commissioners at such meeting on the said report, or any of the matters therein contained, to be contrary to the true intent and meaning of the said acts relating to the said duties respectively, or any of the said acts, it shall be lawful to and for such inspector-general, and to and for any one or more of the commissioners for the division, present at the time of such determination respectively, to require a case to be prepared, and signed by the said commissioners for the division; in which case the said commissioners shall state specially the part or parts of the report of the said inspector-general, and the facts on which the question arose, together with their determination thereupon, and any other circumstances influencing the said commissioners in such their determination; and which case the said commissioners, or the major part of them then present, are hereby required to state and sign accordingly, and to cause the same to be transmitted to the commissioners for the affairs of taxes, who shall forthwith submit the same to the judges of the courts of record at Westminster; and such judges, or any two or more of them, are hereby required, with all convenient speed, to return an answer to such case so transmitted, with their opinion thereon subscribed thereto, and what ought under all circumstances to be done therein, according to which opinion and directions, so certified, the determination of the commissioners which shall have been so objected to, and which shall be stated in such case, shall be confirmed, reversed, altered, or amended, as the case may require, and if any assessments shall be depending on such determination of the said commissioners, the same shall also be altered or confirmed according to the said opinion."

Exception as to Scotland.

Sect. 6. "That none of the provisions of this act hereinbefore contained shall be construed to extend to that part of Great Britain called Scotland."

The sections 7, 8, 9, 10, 11, relating to duties on profits, &c., are repealed.

Certain places shall be assessed according to annexed schedule.

Sect. 12. "That the several parishes and places, or parts of parishes or places, set down in the first column of the following schedule, and which have been heretofore charged to the said respective duties or either of them, in the respective divisions mentioned in the second column of the said schedule, and set opposite thereto respectively, shall, from and after the passing of this act, be charged to the said respective duties in the divisions, and shall be subject to the jurisdiction of the commissioners, and persons acting under them, and to the inspectors and surveyors of the division mentioned in the third column of the said schedule, and set opposite thereto respectively."

"Schedule referred to by the above clause.

Description of Parishes or Places.	Heretofore charged in.	Hereafter to be charged in.
Part of the parish of Wokington, situate in the counties of Berks and Wilts	Hundred of Amesbury, Wiltshire.	Hundred of Sonning, Berkshire.
Part of the parish and town of Morpeth, in the county of Northumberland	Castleward, Northumberland.	Morpeth Ward, Northumberland.
Part of the parish of Gillingham, in the county of Kent, called the Grange, parcel of the liberty of Hastings, in the county of Sussex	Town and port of Hastings, county of Sussex, and liberty thereof.	Rochester division, part of the Lathe of Ford, county of Kent.
Bushton, part of the parish of Cleve Pyhard, in the county of Wilts	Hundred of Elstub and Everley, Wiltshire.	Hundred of Kingsbridge, Wiltshire.
Little Hinton, in the county of Wilts	The same.	The same.
Wroughton, in the county of Wilts	The same.	The same.

II. *The Acts regulating the Assessments and Collections, &c.*

745

Sect. 13. "That nothing in this act shall be construed to extend to any of the cases hereinafter specified; (that is to say) Exceptions.

"First.—To the duties granted by an act, passed in the thirty-eighth year of the reign of his present majesty, by way of a land-tax." 38 Geo. III. c. 3.

"Second.—To the duties granted, or to be granted, by any act or acts of Parliament for one year, for the service of such year." Pensions, &c.

By the 50 Geo. III. c. 105, s. 1, after reciting, that "whereas it is expedient that certain of the powers and provisions contained in any act or acts relating to the duties of assessed taxes, or to the duties arising from the profits of property, professions, trades, and offices, should be amended, in the particulars hereinafter mentioned," it is enacted, "that from and after the passing of this act, the several surveyors and inspectors appointed or to be appointed by his majesty in pursuance of the said acts, to carry into execution the powers therein given to them, in that part of Great Britain called England, shall, in making any increase of duty either on the returns of parties or the estimates of assessors, or the assessments made by commissioners under the said acts, observe the following rules and directions for their government, and shall be subject to the several provisions therein contained; which rules and directions shall be of the like force and effect as if the same were herein inserted under a special enactment." 50 Geo. 3, c. 105.

"Rules and Directions for making Objections and Charges, and for limiting the Times of making the same in certain Cases, in that part of Great Britain called England.

"First.—Every surveyor and inspector appointed, or to be appointed, in pursuance of the said acts, or any of them, shall be, and they are hereby empowered and strictly enjoined and required to inspect and examine all and every the returns of lists, statements, declarations, accounts, or estimates, made by any person or persons chargeable to the said duties, or any of them, or by any assessors of any of the said duties, according to the directions of any act or acts before mentioned, and also all and every the first assessments of the said duties, or any of them, made for any parish, ward, or place, for any year, as well before as after the respective commissioners acting in the execution of the said acts respectively shall have signed and allowed the first assessments made for such parish, ward, or place, for that year: and if he or they shall discover any error or wrong amount or computation of duty therein; or that any person who ought to be charged with the said duties, or any of them, shall have duly made a return as required by the said acts respectively, but shall have been omitted to be charged with the said duties, or any of them, or shall be under-rated in the said first assessment, and that the said return doth contain matters sufficient, whereby the said surveyor or inspector may rate such person, in the said first assessment, to the full duties chargeable upon him or her, according to, or by or from such return, it shall be lawful for the said surveyor or inspector, and they respectively are hereby required, before such allowance, to correct and amend such assessments, and to charge such person to the full amount and at the full rate of duty at which he or she ought to be charged, according to his or her return so delivered.

Surveyors and inspectors to examine returns and assessments, and may amend them, &c.

"Second.—If any such surveyor or inspector shall, after any such assessment or assessments in respect of the duties of assessed taxes shall be signed and allowed by the said commissioners, or if any such surveyor or inspector shall, after any such assessment or assessments, in respect of the duties arising from the profits of property, professions, trades, or offices, shall be signed or allowed by the commissioners acting for the general purposes of the acts relating to the said duties, find or discover, upon his survey or examination, or otherwise, that any person liable to the said duties, or any of them, in respect of which such lists, statements, accounts, or estimates, as aforesaid, ought to have been delivered, hath not made any return as by the said act or acts is required, or hath omitted any person, or any property, or profits, or the amount or value thereof, or any article, matter, or thing, or any description of the same which ought to have been returned, or hath not returned the full amount of value of any property, or profits, as required by any of the said acts, so that he or she shall not, on account of such default or omission, have been charged to the amount which ought to be paid by him or her, or that any exemption, allowance, or deduction, which is not allowed by the respective acts relating to the said duties, shall have been claimed in or by

After assessments are allowed, surveyor to certify omissions to commissioners, by way of surcharge.

50 Geo. 3, c. 105.

Upon delivery of certificate, and oath being made that notice was given, commissioners to allow certificates.

Lists delivered to surveyors, and assessments produced for taking copies.

Notice to persons charged.

In what case delivery of certificate of surcharge to clerk sufficient.

Certificate sufficient proof of contents of notices.

Oath.

Assessments or charges not impeached on account of mistakes in names or descriptions.

such return, then, and in every such case, it shall be lawful for the said surveyor or inspector to certify the same in writing, together with an account of every such default, omission, or claim, with the name or description of the person or thing not returned or omitted, to the best of his knowledge and belief, and the full amount of the single duty by which the assessment ought to be increased, explicitly stating the particulars in respect of which such charge has been made, and to deliver the same to any two or more of the said commissioners for putting in execution the said acts respectively, or to their clerk, in order to have such default, omission, or claim, and the under-rate occasioned thereby, rectified; and such commissioners are, upon the delivery of any such certificate, and upon oath being first made either by the inspector or surveyor, or any other credible witness or witnesses who shall have served the same, that a notice to the effect hereinafter mentioned was duly served, required to sign and allow the said certificates, and to cause supplementary assessments to be made according to such certificates, subject to appeal, as hereafter is allowed."

"Third.—Every person in whose custody any such lists, statements, accounts, or estimates, shall be, shall and is hereby required, upon the request of any such surveyor or inspector as aforesaid, to deliver the same into his custody for the purposes aforesaid, taking his receipt for the same; and every person in whose custody any such assessment shall be, shall and is hereby required, upon the request of such surveyor or inspector as aforesaid, to produce the same; and such surveyor or inspector is hereby authorized to take charge of the same, until he shall have taken such copies of or extracts from the same, as may be necessary for his and their better information."

"Fourth.—The said inspectors and surveyors shall give, or cause to be given, to every person so charged, or leave, or cause to be left, at his or her last or usual place of abode, in the district where such charge was made, or on the premises charged with the assessment, as the case shall require, and as shall have been directed by the several acts relating to the said duties respectively, notice in writing of such charge, and of the amount of duty to be included in the certificate of such charge, and the particulars thereof; which charges the said inspectors and surveyors are hereby empowered to make, at or before such times as are directed by the said acts, or this act, for the delivery of the certificates of such charges to the said respective commissioners."

"Fifth.—In default of a meeting of the said respective commissioners before the time limited by the said acts, or this act, for the hearing of any appeals from the charges of the said surveyor or inspector, or if the said surveyor or inspector shall not have had notice of a meeting of the said respective commissioners, it shall be lawful for the said commissioners, and they are hereby required, at their first meeting to be held thereafter, to sign and allow the said certificates, and afterwards to hear and determine all appeals therefrom."

"Sixth.—The certificate delivered to the commissioners, containing the day or days of service of the notice delivered to the party charged, shall be deemed sufficient proof of the contents thereof, unless the contrary be shown on the production of such notice to the said respective commissioners by the party charged; and no proof of the contents of any such notice shall be required by the said commissioners to be given to them, either by a copy thereof or otherwise, previous to their signing or allowing the said certificates, nor upon appeal therefrom, nor other proof in any matter relating to the same, except as aforesaid; and except the oath of the person or persons who shall have served such notices as hereinbefore directed, and which shall be in the form and to the effect following; that is to say,

"I, A. B., do swear, that a notice in writing was duly served upon each person mentioned in the above certificate, containing the particulars as set forth therein respectively, on the day or days mentioned in the said certificate."

"Seventh.—No assessment made or to be made by any assessor or assessor of the said duties respectively, nor any charge made or to be made by any surveyor or inspector upon such assessment, shall be impeached or affected by reason of any mistake in the christian or surname, or either of them, of any person liable to any of the said duties, nor by reason of any mistake in the description of any property or profits, or of any servant or person, or of any article, matter, or thing, for which the person so charged shall be liable to any of the said duties, nor by reason of any mistake in the amount of the duty charged, nor by any variance between the notice and the certificate of charge, whether such mistake shall appear in, or such variance shall arise from the notice and certificate to be delivered or

made in such case, or in either of them; but that all such assessments and charges shall be valid and effectual, to all intents and purposes, notwithstanding any such mistake or variance: provided, that in cases of charge, the notice thereof be duly served on the person intended to be so charged, and such notice and certificate do severally contain in substance and effect the several particulars on which such charge shall have been made; and every such charge shall be heard and determined on the merits, in such manner as in the said acts or in this act is directed."

" Eighth.—It shall be lawful for any person to whom such notice of charge shall be given as aforesaid, on occasion of his or her having neglected to make any return as required by the said act or acts, at any time previous to the time appointed for hearing appeals next after the delivery of such notice, to make out and deliver to the surveyor or inspector who shall have delivered the notice of charge, a true, perfect, and complete list, statement, account, or estimate, of all matters and things required by the said act or acts to be returned; so that he or she may, from such last-mentioned list, statement, account, or estimate, so to be delivered, be charged to the said duties respectively the full sum at which he or she ought to be charged by virtue of the said act or acts; provided, that to every such list, statement, account, or estimate, there shall be annexed a declaration in writing in the form and to the effect hereinafter mentioned; and if the said surveyor or inspector shall be satisfied with such list, statement, account, or estimate, and the declaration annexed thereto, then he shall certify such return and declaration annexed thereto to two or more of the said commissioners, with the amount of the duty to be charged; who shall thereupon cause the assessment to be made according to such certificate, and the same rate of single duty, as set forth in the said several acts respectively, to be charged on the person making such return, without further trouble or delay; but if, upon examination of such list or return, and declaration annexed thereto, the said surveyor or inspector shall see just cause to object thereto, he shall thereupon certify such return and declaration annexed thereto, together with the cause of his objection, to two or more of the said commissioners, who shall thereupon cause the assessment to be made according to such last-mentioned certificate in double the amount of the duty at which he or she shall be charged, and from which charge no abatement shall be made on any pretence, unless on appeal as hereinafter is directed; of which objection, notice shall be given by the surveyor or inspector to the person to be charged thereby, together with the cause of his objection to the said return and declaration to be annexed thereto; and the said commissioners shall determine the said objections on the merits, without further notice of appeal from the party so charged."

How double duty avoided.

Surveyor may certify same, and party shall be charged at single duty.

If dissatisfied, may state objection.

Notice of objection.

" Ninth.—Every such declaration, in cases where no return hath been previously made by the person so charged for the same year, shall allege and declare in substance, or to the effect as follows; (that is to say) that he or she, the said exhibitant, was not at his or her dwelling-house, or other place of abode, at the time appointed for the fixing or delivery of general or other notices for making a return as required by the said act or acts, nor between that day and the time limited for making such return to the assessor, and that he or she hath not received or had any knowledge of any such notice; or, that he or she was disabled by sickness from making such return; or, that the non-delivery of such return was occasioned by the following mistake or accident, without any intention to defraud the revenue, *videlicet* [*here set forth the cause of such default*]; and that the return to which the declaration of the said exhibitant is annexed is a full, perfect, and complete return of all matters and things required of the said exhibitant by the said act or acts, or by this act, to the best of his or her judgment and belief:—which declaration and return shall severally and respectively be signed by the party making the same, in the proper name and hand-writing or sign of the said party, attested by any one or more credible witness or witnesses, who shall have seen the said party subscribe or sign the same, and shall attest the signature thereof in the proper names and hand-writing of the said witness or witnesses respectively; provided every such witness shall be an inhabitant of the same ward, parish, or place where the said party shall reside, and who shall be rated in the assessment of the same duties for the same ward, parish, or place aforesaid, or if in any place there shall be no inhabitant competent to be such witness, then the said declaration shall be attested by some credible witness, rated as aforesaid, and residing in the next adjoining parish where the said party shall reside."

Declaration to contain a satisfactory account in excuse of party, and to be attested by credible witnesses.

" Tenth.—It shall be lawful for any person to whom such notice of charge shall be served, on occasion of his or her having omitted in the return before made for the same year, any person, property, profits, description, statement, account, or

How, on charges for any omission in a return, double duty may be avoided.

50 Geo. 3, c. 105.

estimate, or any article, matter, or thing which ought to have been contained in such former return, or which shall be mentioned in such notice of charge not to be contained in such former return, or of having claimed any exemption, allowance, or deduction, not allowed by the said act or acts respectively, or of having returned the amount or value of any property or profits at less than the sum which ought to be returned according to the said acts respectively, if he or she shall consent or agree to such charge, to give notice in writing of his or her consent accordingly to the said surveyor or inspector; and the said surveyor or inspector shall certify such consent, and the amount of the single duty which ought to be charged to the said commissioners, according to which certificate the party charged, and consenting thereunto, shall be assessed in the single duty, and such consent shall be deemed equivalent to an amended return and declaration, as required by this act; or such person so charged, if he or she shall not so consent or agree in manner aforesaid, may amend such former return, by delivering to the surveyor or inspector as aforesaid, a supplementary list, statement, account, or estimate, according to the directions of the said acts respectively, and as the case may require, to which a declaration in writing shall be annexed, to the effect hereinafter mentioned; and the said surveyor or inspector shall be at liberty to certify his satisfaction therewith, or his objection thereto, to the said respective commissioners; according to which certificate the party charged shall be assessed in the single duty if such surveyor or inspector shall be satisfied therewith, or in the double duty in the manner hereinbefore directed, in cases where no previous return shall have been made, and as the case may require, subject to the like power of appeal from such objection, and to the like proceedings in all other respects as are before given."

Charge made in single duty, unless surveyor certify objection.

Form of declaration in cases of charge for defective returns.

"Eleventh.—Every such last-mentioned declaration shall allege and declare the grounds and cause of each omission made or mentioned in such notice of charge, to have been made in such former return, and also the grounds and cause of each claim of exemption, allowance, or deduction, and also that the return to which the said declaration is annexed, is a full, perfect, and complete return of all matters and things required of him or her by the said act or acts, or by this act, to which the said charge shall relate, to the best of his or her judgment and belief, and that such omission or claim was not made with intention to defraud the revenue; which said last-mentioned declaration and return shall severally and respectively be signed and attested in the manner before directed in cases of other declarations and returns before mentioned."

No declaration required, if party give notice in writing to surveyor that his return is correct, &c.

"Twelfth.—No return or declaration shall be required of any property, profits, article, matter, or thing of which the party charged shall have made a due return for the same year, but the said party shall be at liberty to give notice in writing to the said surveyor or inspector that he or she doth abide by such former return; or may make out and deliver a supplementary return and declaration in the manner before directed; which return and declaration, together with the return before made, subject nevertheless to the objection of the said surveyor or inspector in manner aforesaid, shall be deemed full, perfect, and complete returns, if the same shall together include all articles, matters, and things, for which the party so charged shall be chargeable; and no person shall be liable to the penalties contained in this act for any article, matter, or thing which shall have been returned by him or her in manner aforesaid, so that he or she might have been fully charged to the said respective duties chargeable thereon, but only for such articles, matters, or things which shall not have been returned by him or her in manner aforesaid."

Vexatious charge, &c.

"Thirteenth.—If any surveyor or inspector shall wilfully make any false and vexatious charge of any of the said duties, or shall wilfully deliver, or cause to be delivered, to the respective commissioners for executing the said acts or any of them, any false and vexatious certificate of charge of any of the said duties, or any false and vexatious certificate of objection to any supplementary return, or shall be guilty of any fraudulent, illegal, or unjust conduct, in the prosecution of any charge of any of the said duties, or shall wilfully neglect the duty of his office, or in any manner offend against the laws for regulating the duty of his said office, and the same shall be proved on the certificate of the said respective commissioners of the division where such offence shall be committed, or any two or more of them, or on the affidavit on oath or solemn affirmation, to be taken before any one of the said respective commissioners, of any credible person or persons, to the satisfaction of the commissioners for the affairs of taxes, or any two or more of them, or by the confession of the said surveyor or inspector, it shall be lawful for the said commissioners for the affairs of taxes, for any such offence, to suspend the payment to the said surveyor or inspector of all or any reward, emolument, or advantage, which the said surveyor or inspector would be entitled

to under the said acts or any of them, for any increase of duty or overplus above the rate of duty occasioned by the information or charge of the said surveyor or inspector, or such part thereof as the said commissioners for the affairs of taxes shall deem just and necessary, and finally to withhold the same, and direct the same to be paid by the receiver-general into his majesty's receipt of Exchequer; unless the lords commissioners of his majesty's Treasury shall think fit to restore the same to the said surveyor or inspector, or to mitigate and lessen the sum so to be withheld and paid over into his majesty's Exchequer: provided always, that nothing hereinbefore contained shall be construed to impeach or affect any action or suit for the recovery of any penalty or penalties imposed by any former act or acts, against such surveyor or inspector for any such offence or offences as aforesaid, or for any false and vexatious charge of any of the said duties; but all such penalties, and the powers for recovery thereof, shall be and remain in force, notwithstanding the powers of this act, or any act or thing done in pursuance thereof."

Proviso.

"Fourteenth.—Where any person or persons, thinking himself, herself, or themselves respectively overcharged or over-rated by any charge or certificate of objection by any surveyor or inspector as aforesaid, or by any assessment to be made by virtue or in pursuance of such charge or certificate, shall have appealed therefrom to the said commissioners according to the directions of the said acts respectively, the appellant shall, upon the hearing such appeal, in all cases where a list, statement, account, or estimate in writing, shall or ought to have been delivered by the said appellant to the assessor, produce, or cause to be produced, before the said commissioners a true, perfect, and complete list, statement, account, or estimate, as the case may require, to the best of the judgment and belief of the said appellant, with a declaration in writing thereunto annexed, to the effect hereinafter mentioned; (that is to say) the said appellant shall declare that the list, statement, account, or estimate, to which the said declaration is annexed, doth contain all matters and things required of the said appellant to be returned by him or her, for which he or she is chargeable by virtue of any act or acts, to the best of his or her judgment and belief; which return and declaration shall severally and respectively be signed by the said appellant in the proper name and handwriting of the said appellant; and in default of the production of such list, statement, account, or estimate, by or on the behalf of the said appellant, with such declaration annexed, the said commissioners shall confirm the charge or objection against which such appeal was made."

Appeal.

Production of lists, &c.

Charges confirmed in default of production.

"Fifteenth.—Upon every charge allowed or confirmed by the respective commissioners, in the whole or in part, upon which any increase of duty shall be made, the assessments thereupon shall be made in double the amount of duty which shall have been charged in the supplementary assessments on occasion of such charge, unless where the same is otherwise provided for by this act."

Assessments made in double duty, &c.

"Sixteenth.—Where an amended return, with a declaration annexed thereto, shall not be delivered to the surveyor or inspector, and where no list, statement, account, or estimate with such declaration annexed as aforesaid shall be produced to the said commissioners, on the hearing of such appeal, it shall not be lawful for the said respective commissioners to make any abatement, defalcation, or remission of the said double duty or any part thereof, but the same shall stand good and remain part of the annual assessment; unless the party charged shall have given notice of his or her consent to the charge of the said surveyor or inspector, or unless the said respective commissioners shall be of opinion that the said surveyor or inspector was or were enabled to correct or amend the first assessments of the said duties for that year, according to the directions of this act, by means of or by reference to the original return of the party so charged, in which cases it shall be lawful for the said commissioners who shall have confirmed such charge at the same time to remit and strike off the whole of the said double duty."

In what case double duty remitted.

"Seventeenth.—Upon every charge confirmed upon appeal, if the said commissioners shall, after examination of the appellant, or by other lawful evidence produced on his or her behalf, as directed by the said acts respectively, be of opinion that the alleged default, neglect, omission, or claim of exemption, allowance, or deduction, hath been duly accounted for, and that the cause or causes have been truly stated in any amended return and annexed declaration, and that the appellant had a just or reasonable cause of controverting the said charge, and that the said default, neglect, omission, or claim of exemption, allowance, or deduction, was not wilfully made and with intention to defraud the revenue, it shall be lawful for the said commissioners who shall have determined the said appeal, although they

Double duty remitted where default has been corrected by party's return.

50 Geo. 3, c. 135. shall have confirmed the charge in part or in the whole, at the same time to remit and strike off the whole of the double duty."

Moiety of double duty remitted where default not fraudulent.

In what case the whole of double duty remitted, &c.

In what case no double duty.

Reward to officers.

Charges not to be made after objections to estimates of same property.

Charges may be made after objections in certain cases.

"Eighteenth.—Upon every charge confirmed upon appeal, although no amended return shall have been delivered to the surveyor or inspector as allowed by this act, if the said commissioners shall, after examination of the appellant, or by other lawful evidence produced on his or her behalf, as directed by the said acts respectively, be of opinion that the alleged default, neglect, omission, or claim of exemption, allowance, or deduction, was not wilfully made, and with intention to defraud the revenue, it shall be lawful for the said commissioners who shall have determined the said appeal, at the same time to remit and strike off any part of the said double duty, not exceeding one moiety thereof; provided that, in every such case, if the appellant shall prove to the satisfaction of the said commissioners, that he or she hath been prevented from making such amended return within the time herein limited by absence or sickness or other sufficient cause, and that such default, neglect, omission, or claim as aforesaid, was not wilfully made, and with intention to defraud the revenue, it shall be lawful for the said commissioners to remit and strike off the whole of the said double duty."

"Nineteenth.—Nothing herein contained shall be construed to grant the double duty, or any part thereof, on any of the said duties, if the party charged shall not, by the laws in force at and immediately before the passing of this act, be directed to return the article, matter, or thing on which the said duties shall be chargeable, and for which the said party was so charged."

"Twentieth.—Every increase of duty made by occasion of such charges, whether the whole of the double duty shall be remitted or not, and also the double duty, or such part thereof which shall not be remitted, shall be certified on the supplementary assessments to be made for each year under the hands of the said respective commissioners or any two of them, to the commissioners for the affairs of taxes; and the said commissioners for the affairs of taxes shall have authority to direct the receiver-general who shall have received the said increase and double duty, to pay to the said surveyor and inspector out of the same, in such proportions as they shall think proper, or to either of them, as they see fit, any sum of money not exceeding the rate which shall have been settled by the lords commissioners of the treasury, or the high treasurer for the time being, as a reward for their labour and diligence in making such increase of duty; and the certificate of the said commissioners for the affairs of taxes, or any three or more of them, shall be a warrant to the said receiver-general to pay the same."

"Twenty-first.—The determination of the commissioners acting for the general purposes of the acts relating to the duties arising from the profits of property, professions, trades, or offices, upon any objection made by the surveyor or inspector of the said duties to the estimate or value of any property, or to the estimate of the profits of any profession, trade, or office on which any assessment after appeal shall be made, shall be construed to preclude any surveyor or inspector from afterwards making a further charge on the same person or persons for the same property or profits for the same year of assessment; and, in like manner, the determination of the said commissioners upon every such objection to the estimates or value delivered by the assessors of the property in any parish, ward, or place in which assessments after appeal shall be made, shall preclude the surveyor or inspector from afterwards making a further charge on the same property in the same parish, ward, or place in that year."

"Twenty-second.—The objection of any surveyor or inspector to the estimate or estimates of any person or persons, or of the assessor or assessors of any parish, ward, or place, or to any assessment or assessments of additional commissioners in pursuance of the said last-mentioned acts, in relation to the duties arising from the profits of property, professions, trades, and offices, shall not be construed to preclude any surveyor or inspector from afterwards charging the same person or persons for any other property, or the profits of any other profession, trade, or office not included in the estimate or estimates, assessment or assessments before objected to, and determined as aforesaid; nor to preclude any surveyor or inspector from afterwards objecting to any other estimate or estimates, or assessment or assessments, or from afterwards charging any other person or persons in the same parish, ward, or place, or in any other parish, ward, or place in the same or any other division, in respect of any property or the profits of any profession, trade, or office, not before objected to and determined as aforesaid; and the respective commissioners acting for the general purposes of the said last-mentioned acts are hereby strictly enjoined and required to sign and allow such last-

mentioned objections and charges according to the directions of the said acts, in respect of the powers therein given to such surveyor and inspector; provided, that all such objections and charges be made within the times herein respectively limited."

"Twenty-third.—From and after the passing of this act, every objection to the estimates directed by the said last-mentioned acts, in relation to the duties arising from the profits of property, professions, trades, or offices, shall be made before the first assessments on such estimates shall have been signed and allowed by the commissioners for the general purposes of the said acts, and not afterwards."

Objection to be made before assessment.

"Twenty-fourth.—No charge upon any assessment under the said last-mentioned acts, in relation to the duties arising from the profits of property, professions, trades, or offices, shall be allowed or signed, unless the certificate thereof shall be delivered to the respective commissioners before the expiration of three calendar months after the 5th day of January in the year of such assessment, in case such assessment shall have been made on or before the said 5th day of January, or, if such assessment shall not then have been made, unless the certificate of charge thereon shall be delivered to the said commissioners within three calendar months after such assessment shall have been made, except in the cases herein-after mentioned."

Charges to be made in a limited time.

"Twenty-fifth.—If any person or persons shall have neglected to make a return of property or profits as required by the said last-mentioned acts, and no estimate of the said property or profits, nor any assessment, shall be made thereupon for any year, it shall be lawful for the surveyor or inspector, on discovery thereof, at any time within twelve calendar months after the expiration of the year when such return ought to have been made, to charge such person or persons to the amount which ought to have been returned, in like manner as such persons might have been charged within the year of assessment; and the like proceedings shall be thereupon had as if such discovery and charge had been made within the year of assessment; and every assessment thereupon made shall be added to the current assessments of the parish, ward, or place, in the manner herein directed."

When charges of property omitted may be made.

"Twenty-sixth.—If any person or persons shall by any falsehood, wilful neglect, fraud, covin, or contrivance whatever, escape from taxation for the profits of any distinct property, profession, trade, or office for any year, it shall be lawful for the surveyor or inspector, within the like period of twelve calendar months as aforesaid, to charge such person or persons to double the amount of duty which ought to have been charged in the year of assessment upon such distinct property, profession, trade, or office; and upon proof of such falsehood, wilful neglect, fraud, covin, or contrivance, to the satisfaction of the commissioners to whom such charge shall be certified, the assessment on the said double duty shall stand good, and be added to the supplementary assessments of the current year of the parish, ward, or place; and no part thereof shall be remitted on any pretence whatever."

In case of fraud, charge to be made.

Sec. 2. "That the several provisions in the preceding clause of this act, relating to charges in the single duty as aforesaid, shall be construed, so far as the same respect the duties of assessed taxes in that part of Great Britain as aforesaid, as applicable to the provisions of an act passed in the forty-third year of the reign of his present majesty, intituled, 'An Act for Repealing the several Duties under the Management of the Commissioners for the Affairs of Taxes, and granting New Duties in lieu thereof; for granting New Duties in certain Cases therein mentioned; for repealing the Duties of Excise on Licenses, and on Carriages constructed by Coachmakers, and granting New Duties thereon, under the Management of the said Commissioners for the Affairs of Taxes; and also New Duties on Persons selling Carriages by Auction or Commission;' and any other act or acts for regulating the said duties respectively, and relating to surcharges in the double duty, and as far as the said provisions respect the duties arising from the profits of property, professions, trades, and offices in that part of Great Britain as aforesaid, the same shall be construed as applicable to the provisions of an act passed in the forty-sixth year of the reign of his present majesty, intituled, 'An Act for granting to his Majesty during the present War, and until the Sixth Day of April next after the Ratification of a Definitive Treaty of Peace, further additional Rates and Duties in Great Britain on the Rates and Duties on Profits arising from Property, Professions, Trades, and Offices; and for Repealing an Act passed

Provisions before mentioned relating to charges in single duty, and relating to surcharges in double duty, to be construed as applicable to the provisions of 43 Geo. 3, c. 161, and 46 Geo. 3, c. 65, &c.

50 Geo. 3, c. 105.

Provisions in
acts repugnant
hereto repealed.Commissioners
acting not liable
to suits.

Costs.

43 Geo. 3, c. 161,
s. 29, repealed.Notice to assess-
or.

in the Forty-Fifth Year of his present Majesty, for Repealing certain Parts of an Act made in the Forty-Third Year of his present Majesty, for granting a Contribution on the Profits arising from Property, Professions, Trades, and Offices; and to consolidate and render more effectual the Provisions for collecting the said Duties; and any other act or acts for regulating the said duties respectively, and relating to surcharges in the double duty, and as if the said provisions in the said clause of this act relating to charges in the single duty had been expressly applied to the provisions of the said acts respectively relating to surcharges in the double duty, and had been respectively enacted therein; and all provisions, clauses, matters, and things in the said several acts respectively, which are repugnant to the provisions in the said clause of this act, and for which other provisions are made in this act, except such provisions, clauses, matters, and things therein as relate to surcharges in the double duty which are herein declared to be applicable to the provisions of this act, shall severally cease and determine."

Sect. 3. "That in case any commissioner or commissioners acting in the execution of any such act or acts herein mentioned, or of this act, shall, by information, or other process or proceedings whatsoever at the suit or on the behalf of his majesty, his heirs or successors, be proceeded against or impleaded for or by reason of any matter or thing he or they may do or determine, or may refuse or omit to do in or about the execution of any such act or acts, and upon the trial of such information or other process a verdict shall be given, or any order or rule of court shall be made for such commissioner or commissioners, or such information or other process or proceeding shall be discontinued or withdrawn, or dismissed the court in which they shall have been prosecuted, then, and in either of the said cases, such commissioner or commissioners shall be entitled to his or their full costs of suit, to be taxed by the proper officer of such court as between attorney and client; and it shall be lawful for the commissioners for the affairs of taxes to direct the receiver-general of the county within which any such commissioner or commissioners shall act, and the said receiver-general is hereby required, to pay such taxed costs out of any money in his hands arising from the duties of assessed taxes, and which shall be allowed in the accounts of the said receiver-general."

Sect. 4. "That so much of an act made in the forty-third year of the reign of his present majesty, intituled, 'An Act for Repealing the several Duties under the Management of the Commissioners for the Affairs of Taxes, and granting New Duties in lieu thereof; for granting New Duties in certain Cases therein mentioned; for Repealing the Duties of Excise on Licences, and on Carriages constructed by Coachmakers, and granting New Duties thereon, under the Management of the said Commissioners for the Affairs of Taxes; and also New Duties on Persons selling Carriages by Auction or on Commission,' as directs that every person who should begin to retain or employ any male servant, or other male person therein described, or keep or use any carriage (such servant or carriage not being in the place or stead of any former one liable to the like duty), or to use or exercise the trade of an horsedealer, or coachmaker, or maker of such carriages, or a seller thereof by auction or on commission, or to wear or use hair-powder, or any armorial bearings or ensigns, or who should cease to retain or employ any male servant, or to keep or use any carriage liable to the duty without retaining or employing any other male servant or other male person therein described, or keeping or using any other carriage liable to the like duty in the place or stead of such servant or carriage, or who should cease to use or exercise the said trade or business of an horsedealer, or of a coachmaker, or maker of such carriages, or a seller thereof by auction or on commission, or to wear or use any hair-powder, or any armorial bearings or ensigns, should, within twenty days after he or she should so begin or cease to retain or employ such servant or other male person, or to keep or use such carriage, or to use or exercise such trade or trades, or to wear or use any hair-powder, or any armorial bearings or ensigns, cause notice thereof in writing to be given to the assessor or assessors for the district, parish, or place where he or she should reside, and a list of the number of such servants and carriages, and the increase or decrease made thereby, and the par-

tical rate of duty to which he or she should be liable as having used or exercised such trade or trades, or worn or used hair-powder or armorial bearings or ensigns, describing in such notice every such servant or other male person by his proper name, and the several capacities in which servants or other male persons respectively should be or should have been retained or employed, and also describing every such carriage by its usual name and description, distinguishing the number of bodies used with, and of wheels belonging to each such carriage, and the number of horses used in drawing any such carriage with less than four wheels, and also distinguishing each such carriage liable as a taxed cart, and the name or names and place of abode of the person or persons who ought to return such lists; shall be, and the same is hereby repealed."

Sect. 5. "That, in respect of the duties of assessed taxes, the said respective commissioners shall cause the duplicates required by the said act to be made out after the time appointed by the said act for making the supplementary assessments of the said duties yearly, and within one month at farthest after all appeals from the said supplementary assessments shall have been heard and determined, and so that the same may be delivered to the receiver-general and to the commissioners for the affairs of taxes respectively, on or before the day to be appointed for the receipt of the last instalment of the said duties next after the fifth day of April yearly; and in respect of the duties arising from the profits of property, professions, trades, and offices, the said respective commissioners shall cause the duplicates required by the said act to be made out after the time appointed by this act, for making the supplementary assessments of the said last-mentioned duties yearly, and within one month at farthest after all appeals from the said supplementary assessments shall have been heard and determined, and so that the same may be delivered to the receiver-general and to the commissioners for the affairs of taxes respectively, on or before the day to be appointed for the receipt of the last instalment of the said last-mentioned duties next after the fifth day of July yearly; and no clerk to the said respective commissioners who shall make out and deliver the respective duplicates required by the said act within the time aforesaid shall be sued or prosecuted for, or liable to the penalty contained in the said act by reason of not making out or delivering the said respective duplicates within the time directed by the said act."

Sect. 6. "That no person who shall in the year 1810, or in any year, have made out, signed, and delivered in the manner directed by the said last-mentioned act made in the forty-third year of the reign of his present majesty, or shall in any future year make out, sign, and deliver in like manner, lists of the greatest number of servants or other male persons retained or employed, and of carriages, horses, mules, and dogs kept by such person, or of having worn or used hair-powder, or any armorial bearings or ensigns, in the course of the year ending on the fifth day of April preceding the delivery of such list, and who shall continue to retain or employ the like number and description of servants or other male persons, and keep the like number and description of carriages, horses, mules, and dogs respectively, or wear or use hair-powder, or armorial bearings or ensigns, in the like manner, subject to the like duty as in the year to which such list related, and in the same ward, parish, or place, shall be obliged to make out, sign, and deliver such lists, or either of them, in any succeeding year, nor be subject or liable to any penalty for omitting or neglecting so to do, so long as such person shall continue to reside in such ward, parish, or place, and shall not be chargeable in any other ward, parish, or place, for any servant, carriage, horse, mule, or dog kept by such person: provided always, that such person shall in each year deliver or cause to be delivered to the assessor or assessors of the ward, parish, or place, notice in writing that he or she is desirous of being charged for the same articles, matters, and things as in the preceding year; and every such notice shall be an authority for the said commissioners to charge such person in the first assessments for that year for the same articles, matters, and things respectively, for which such person stood charged in the assessments of the preceding year."

Sect. 7. "That in all cases of charge by any surveyor or inspectors as aforesaid—

50 Geo. 3, c. 105.

Time for making out and delivering duplicates of assessments enlarged.

No person having made out lists of the greatest number of servants, &c., shall be compellable to make out a fresh list.

Proviso.

In what cases double duty struck off.

50 Geo. 3, c. 105.

said, of any of the duties on servants, carriages, horses, mules, and dogs, and for using hair-powder or armorial ensigns, where it shall be proved, on appeal, to the satisfaction of the said commissioners acting for the division, that there was any doubt whether the article or articles so charged was or were rateable within the meaning of the said acts, or any of them, and that the omission thereof or alleged default was not wilfully made, and with intention to defraud the revenue, it shall and may be lawful for such commissioners to remit or strike off the whole of the double duty chargeable on the person or persons so charged."

Time allowed
for delivering in
amended return.

Sect. 8. "That every person to be charged in pursuance of this act, by the certificates of any surveyor or inspector, shall have the full period of ten days after service of the notice of such charge, to deliver his or her amended return to such surveyor or inspector, according to the directions of this act, and no certificate of such charge shall be signed or allowed by the said commissioners, nor any appeal shall be heard from such charge, before the expiration of such period of ten days; and if the person so charged shall, before the expiration of the said period, deliver a return and declaration as aforesaid, which the said surveyor or inspector shall object to, then such return and declaration shall be deemed to be a sufficient notice of appeal from such charge to the commissioners of the division, who are hereby required to hear and determine the matter thereof, according to the directions of this act; and if the person so charged shall not, before the expiration of the said period of ten days, deliver a return or declaration as aforesaid, it shall be lawful for the said commissioners, upon the appearance before the said commissioners of the person charged, or some person on his or her behalf, and the delivery to them of such list and declaration as is hereinbefore required on the day or days appointed for hearing appeals from the charges of such surveyor or inspector, to hear and determine the matter of such charge, according to the directions of this act, notwithstanding the person so charged shall not have given any previous notice of his or her intention to appeal; provided, that in default of the appearance of the party charged before the said commissioners, or some person on his or her behalf, on such day or days of appeal, or in default of the production of such list or declaration as aforesaid, the certificate of such charge shall be confirmed by the said commissioners."

Making false de-
claration, mis-
demeanor.

Sect. 9. "That if any person, in any such declaration as aforesaid, shall wilfully and fraudulently declare any matter or thing which shall be false or untrue, every person so offending, and being thereof lawfully convicted, shall be judged guilty of a misdemeanor, and shall be committed to the gaol of the county, riding, or shire, where such offence shall be tried, for any space of time not exceeding six calendar months, and shall be fined in such sum, not exceeding treble the amount of duty for which such person shall have been charged, as the court before whom such trial shall be had shall think fit to order."

Indictment for
false declaration,
how laid, &c.

Sect. 10. "That any indictment for such misdemeanor, in making a false declaration as aforesaid, whether such declaration shall be made within Great Britain or without, shall be laid, tried, and determined in the county, riding, or shire, where such declaration shall be exhibited to the respective commissioners of the duties to which such declaration shall relate."

Arrears of duties
may be collected.

Sect. 11. "And whereas, by an act passed in the forty-eighth year of the reign of his present majesty, intituled, 'An Act to amend the Acts relating to the Duties of Assessed Taxes, and of the Tax upon the Profits of Property, Professions, Trades, and Offices, and to regulate the Assessment and Collection of the same, certain Rules and Directions are contained for paying to the Receiver-General, and accounting for the Duties received by the Collectors in that part of Great Britain as aforesaid: and whereas it is expedient that the same should be altered and amended in certain Particulars; be it further enacted, that whenever any schedule of arrears shall have been, or shall be transmitted by the respective commissioners acting in the execution of the acts in relation to the duties therein mentioned, or any of them, to the receiver-general of the said respective duties, and the commissioners for the affairs of taxes shall be of opinion that the said duties in arrear might more conveniently be collected by the respective collectors of the said duties in their respective districts, according to

the directions of the several acts granting the said duties, or other acts relating to the said respective duties, than by process to be issued out of the Court of Exchequer, it shall be lawful for the said commissioners for the affairs of taxes to direct the said receiver-general to return the said schedules to the said respective commissioners from whom he or they received the same; and the said respective commissioners shall cause the said duties in arrear to be levied, under all or any of the powers, and by any of the ways and methods, prescribed in the said acts respectively, without delay."

III. Of the Assessed Taxes themselves. (a)

The assessed taxes themselves are annual duties, charged as follows:—Until the passing the act 43 Geo. III. c. 161, most of these duties were imposed by various acts of Parliament; but that act, reciting that the several acts might be more effectually carried into execution if the provisions for ascertaining, charging, and assessing the duties were comprised in one act, and varied and amended in some respects, enacted, that in lieu and instead of the duties granted by, or contained in the several schedules annexed to the prior recited acts, and thereafter repealed, there shall be assessed, raised, levied, collected, and paid certain duties specified in the schedule to that act; and then refers to those *ten* schedules of different descriptions of taxes, by letters A, B, C, D, E, F, G, H, I, and K, viz:—A. of duties payable for every *dwelling-house* within and throughout Great Britain, according to the number of windows or lights in each. B. of duties made payable on all *inhabited dwelling-houses*, according to the value thereof. C. of duties payable annually for every male *servant* retained or employed in certain named capacities. D. of duties payable on *carriages* therein mentioned. E. of duties payable for *horses*, mares, and geldings used as therein mentioned. F. of duties payable for *other horses*, not charged with duty in last schedule and on *mules*. G. of duties payable on *dogs*. H. of duties payable by *horse-dealers*. I. of duties payable by persons wearing *hair-powder*. K. of duties payable for using *armorial bearings*.

The statutes 48 Geo. III. c. 55, and 52 Geo. III. c. 93, add schedule L., of duties payable for selling *game*.

The act 43 Geo. III. c. 161, and the schedules thereof, contained rules for charging the duties, together with certain modifications, reductions, and exemptions; and also provides that the duties granted by that act shall be levied pursuant to the regulations of the 43 Geo. III. c. 99 (*ante*, p. 700—724), and in Scotland under the regulations in 43 Geo. III. c. 150; and enacts that the commissioners, inspectors, surveyors, assessors, and collectors, acting under the said acts (43 Geo. III. c. 99, and c. 150), shall execute all matters and things in relation to the duties by that act granted.

By several subsequent acts, hereafter noticed, new provisions were introduced, and the amount of duties increased, diminished, or repealed, as the exigencies of the public have required. But still, as this principal act, 43 Geo. III. c. 161, is the main regulating act, it is deemed expedient first to state its provisions, then the subsequent regulations, and lastly the several schedules of duties. We will, therefore, consider the third branch of the subject under two heads, viz. *First*, the *Regulations* of the 43 Geo. III. c. 161, and subsequent acts; and, *secondly*, the several *Duties*, with the particular rules and exemptions affecting them.

First. The Regulations of 43 Geo. III. c. 161, and subsequent Acts. REGULATIONS, &c.

It will be perceived, on referring to the provisions of this act, and subse-

(a) See general division of the subject, *ante*, p. 699. The 38 Geo. III. c. 40, s. 41, transferred the management of the assessed taxes to the commissioners for the affairs of taxes. The 43 Geo. 3, c. 99, reciting such transfer, then intro-

duces the new general regulations relative to such assessed taxes, *ante*, p. 700; and the act 43 Geo. III. c. 161, and subsequent acts, contain other particular regulations.

REGULATIONS,
&c.

43 Geo. 3, c. 161.

quent acts, that they may be properly subdivided and arranged under the following heads, viz :—

1. *The Commissioners, Inspectors, Surveyors, Assessors, and Collectors*, 43 Geo. III. c. 161, s. 6, 8.
2. *The Assessments and returning Lists of Persons liable*, ss. 25, 26, 28, 30, 31, 32, 52, 33, 34 to 38, 43, 44, 49, 50.
3. *Of Amending Assessments, and of Surcharges, and of Appeals and Cases for Opinions of Judges*, ss. 62 to 76; 45 Geo. III. c. 71, s. 3; 4 Geo. IV. c. 11, s. 7.
4. *Provisions for facilitating the Recovery of Duties*, 43 Geo. III. c. 161, s. 23, 51, 53 to 56, 58, 59.
5. *General Regulations relating to the Execution of the Act*, 43 Geo. III. c. 161, ss. 9, 16, 78, 79, 81, 86, 80.

But it will be better to print all the sections of this principal act, 43 Geo. III. c. 161, continuously, and then to state the subsequent enactments.

43 Geo. 3, c. 161.

The 43 Geo. III. c. 161. (a)

“ An Act for Repealing the several Duties under the Management of the Commissioners for the Affairs of Taxes, and granting New Duties in lieu thereof; for granting New Duties in certain Cases therein mentioned; for Repealing the Duties of Excise on Licenses, and on Carriages constructed by Coach-makers, and granting New Duties thereon, under the Management of the said Commissioners for the Affairs of Taxes; and also New Duties on Persons selling Carriages by Auction, or on Commission.”

42 Geo. 3, c. 34.

“ Whereas the several acts in relation to the duties on houses, windows, and lights, and to the duties on inhabited houses, which were consolidated with the duties granted by an act, passed in the last session of Parliament, intituled, ‘ An Act for granting to his Majesty certain Additional Duties on Windows or Lights, and on Inhabited Houses, and for Consolidating the same with the present Duties thereon;’ and also the several acts in relation to the duties on male servants, carriages, horses, mules, and dogs, which were consolidated with the duties granted by another act, passed in the last session of Parliament, intituled, ‘ An Act for granting to his Majesty certain Additional Duties on Servants, Carriages, Horses, Mules, and Dogs, and for Consolidating the same with the present Duties thereon;’ and also certain Acts, passed in the thirty-sixth and forty-first years of the reign of his present majesty respectively, intituled, the one thereof, ‘ An Act for Repealing the Duties on Licenses to Persons using or exercising the Business of an Horse-Dealer, and granting New Duties in lieu thereof;’ and the other thereof, ‘ An Act for Transferring the Receipt and Management of the Duties on Licenses for using or exercising the Trade and Business of an Horse-Dealer from the Commissioners of Stamps to the Commissioners for the Affairs of Taxes, and also for making further Provisions in respect to the said Duties so transferred;’ and also an act, passed in the forty-first year of the reign of his present majesty, intituled, ‘ An Act for Transferring the Receipt and Management of certain Duties on Certificates for wearing Hair-Powder, or using Armorial Bearings, from the Commissioners of Stamps to the Commissioners for the Affairs of Taxes, and also for making further Provisions in respect of the said Duties so transferred;’ might be more effectually carried into execution, if the provisions for ascertaining, charging, and assessing the same, were comprised in one act, and varied and amended in

42 Geo. 3, c. 37.

Geo. 3, c. 17.

eo. 3, (U. K.)

41 Geo. 3, (U. K.)
c. 69.

(a) This act, as to the amount of duties in schedules, was repealed by 48 Geo. III. c. 55, s. 2, and new schedules are annexed to that act. The last-mentioned schedule, as far as respects the duties on certain carriages, was af-

fectured by 50 Geo. III. c. 104; 4 Geo. IV. c. 11; and 6 Geo. IV. c. 7; and the 52 Geo. III. c. 93, alters some of the schedules. The existing schedules will be printed at length, *post*.

some respects; be it therefore enacted," "that, from and after the fifth day of April, 1804, throughout that part of Great Britain called England, Wales, and Berwick-upon-Tweed, and from and after the 24th day of May, 1804, throughout Scotland, in lieu and instead of the duties granted by or contained in the several schedules annexed to the said recited acts, and hereinafter repealed, there shall be assessed, raised, levied, collected, and paid unto and for the use of his majesty, his heirs and successors, upon houses, windows, and lights, as set forth in the schedule to this act annexed, marked (A.); and upon inhabited houses, as set forth in the schedule to this act annexed, marked (B.); and upon all male servants retained or employed by any person or persons in any of the several capacities mentioned in the schedule to this act annexed, marked (C.); and upon all carriages of any of the descriptions mentioned in the schedules to this act annexed, marked (D.); and upon all horses, mares, and geldings, kept and used by any person or persons for any of the purposes mentioned in the schedule to this act annexed, marked (E.); and upon all other horses, mares, or geldings, not charged with any duty by the before-mentioned schedule (E.), and upon mules, as described in the schedule to this act annexed, marked (F.); and upon all dogs of any of the descriptions mentioned in the schedule to this act annexed, marked (G.); and upon all horse-dealers residing within the respective limits described in the schedule to this act annexed, marked (H.); and upon all persons in respect of hair-powder, or any armorial bearings or ensigns, as respectively set forth in the schedules to this act annexed, marked (I.) and (K.); the several duties respectively inserted, described, and set forth in the said several schedules marked (A.), (B.), (C.), (D.), (E.), (F.), (G.), (H.), (I.), and (K.), hereunto annexed, which several schedules, and the rules and exemptions therein contained, shall be deemed and construed a part of this act, as if the same were incorporated therewith under a special enactment."

REGULATIONS,
&c.

43 Geo. 3. c. 161.
From April 5,
1804, in Eng-
land, and from
May 24, in Scot-
land, duties on
windows (A.),
houses (B.), ser-
vants (C.), car-
riages (D.),
horses (E.),
mules (F.), dogs
(G.), horse-deal-
ers (H.), hair-
powders (I.), ar-
morial bearings
(K.), shall be le-
vied according to
schedules of this
act, in lieu of
former duties. (a)

Sect. 2. "And whereas, by an act passed in the twenty-fifth year of the reign of his present majesty, intituled, 'An Act for granting to his Majesty certain Duties upon Licenses to be taken out by Coachmakers, and also certain Duties upon Carriages to be built for Sale,' certain excise duties were granted in Great Britain on licenses taken out by such coachmakers, and also on carriages with four or two wheels respectively, which should be built or constructed for sale: and whereas it is expedient that the said duties should be repealed, and other duties should be granted in lieu thereof on coachmakers, and on carriages constructed by them for sale, to be placed under the management of the commissioners for the affairs of taxes, and also the like duties on persons vending the same by way of auction, or on commission, for or in the expectation of profit; be it further enacted, that all duties granted by the said last-recited act shall, from and after the respective days before mentioned in the respective parts of Great Britain,* cease and determine, save and except in all cases relating to the recovering or paying any arrears of the said duties by the said act granted, which on that day shall remain unpaid, and the several clauses and provisions for receiving and recovering the same."

Excise duties under
25 Geo. 3.
c. 49, on licenses
to coachmakers,
and on carriages
built for sale, re-
pealed, except as
to arrears. (a)

* See s. 1.

All Excise licenses shall cease from the days fixed for the repeal of the duties (see sect. 1), and commissioners shall return a portion of the duty for the time then unexpired (see sect. 3).

Sect. 4. "That, from and after the respective days before mentioned, in England and Scotland respectively, there shall be raised, levied, collected, and paid to his majesty, his heirs and successors, the several duties on coachmakers, and on carriages built and constructed by them for sale, in lieu and instead of the duties hereby repealed, and also the new duties on persons vending such carriages by auction or commission for or in expectation of profit, severally contained in schedules (D.) No. 5 and 6, which schedules shall be construed a part of this act, and as the other schedules to this act are directed to be considered."

Duties in sche-
dule D. 5 & 6,
imposed on
coachmakers,
carriages built
for sale, and per-
sons selling car-
riages.

(a) It seems that sects. 1, 2, 3, 4, are virtually repealed by 48 Geo. III. c. 55, s. 2.

REGULATIONS,
&c.

43 Geo. 3, c. 161.
Duties granted
by this act shall
be levied under
the regulations of
43 Geo. 3, c. 99
(England), and c.
150 (Scotland).

Sect. 5. "That all the several duties hereby granted in England, Wales, and Berwick-upon-Tweed, shall be assessed, raised, levied, and collected under the regulations of an act passed in the present session of Parliament, intituled, 'An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for amending the same;' and all the several duties hereby granted in Scotland shall be assessed, raised, levied, and collected, under the regulations of any act passed or to be passed in the present session of Parliament, for consolidating certain of the provisions contained in any act or acts relating to the duties under the management of the commissioners for the affairs of taxes, and for amending the said acts as far as the same relate to Scotland; and all and every the powers, authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things contained in the said acts, shall be severally and respectively duly observed, practised, and put in execution, throughout the respective parts of Great Britain aforesaid, as fully and effectually, to all intents and purposes, as if the same powers, authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things, were particularly repeated and re-enacted in the body of this act; and all and every the regulations of the said acts shall be respectively applied, construed, deemed, and taken to refer to this act, as if the same had been specially enacted therein."

Commissioners of
land-tax qualified
as under 38 Geo.
3, c. 5, &c. shall
be commissioners
for executing
this act; monies
levied shall be
under manage-
ment of Tax
Office.

Sect. 6. "That, for the better execution of this act, and for the ordering, raising, collecting, levying, and paying of the several sums of money hereby made payable, all and every the persons who now are, or for the time being shall be, commissioners for putting in execution an act, passed in the 38th year of the reign of his present majesty, intituled, 'An Act for the granting an Aid to his Majesty by a Land-Tax to be raised in Great Britain, for the Service of the Year One Thousand Seven Hundred and Ninety-Eight;' and who shall be respectively qualified or authorized to act, and shall have taken the oaths as directed by the said respective acts passed in the present session of Parliament, shall respectively be commissioners for putting in execution this act, and the powers therein contained, in all and every the respective counties, ridings, cities, boroughs, cinque-ports, towns, and places, privileged or not privileged, within England, Wales, and Berwick-upon-Tweed, and in all and every the shires, stewardries, cities, and boroughs in Scotland; and the several sums of money so levied shall be under the care and management of the commissioners for the affairs of taxes for the time being, appointed or to be appointed by his majesty, his heirs and successors."

Sheriffs depute,
&c. in Scotland,
may act as com-
missioners.

Sect. 7. "That the sheriff depute and sheriff substitute in each shire or stewardry in Scotland shall, by virtue of such office, without other qualification, execute this and the said last-recited act, as commissioners in the shire or stewardry for which they are appointed sheriff depute and sheriff substitute respectively, and shall not be liable to any penalty or forfeiture for acting therein, without the qualification before required."

Commissioners,
assessors, col-
lectors, &c. under
43 Geo. 3, c. 99,
s. 180, shall
execute this act.

Sect. 8. "That the assessors and collectors appointed by the said commissioners for any parish, ward, or place, in pursuance of the said recited acts respectively, passed in the present session of Parliament, shall be the assessors and collectors of the several duties granted by this act; and the said commissioners shall cause notice to be given to such persons, that they respectively are appointed assessors and collectors of the said duties hereby granted; and the several commissioners, inspectors, surveyors, assessors, and collectors, are hereby empowered to do and execute all matters and things in relation to the duties by this act granted, which they respectively are empowered to do and execute in relation to the duties mentioned in the said recited acts respectively, and shall severally be subject and liable to the like penalties for any neglect or omission in the performance of their duty, or any fraud or abuse in executing the same, as are inflicted on such officers by the said recited acts respectively for the like offences."

Duty of inspectors
and surveyors.

Sect. 9. "That the several persons who, as inspectors or surveyors, are or may be authorized to act in execution of the said recited acts respectively, passed in the present session of Parliament, shall respectively have the survey

and inspection of the duties by this act made payable within the respective parts of Great Britain, as aforesaid, and shall take accounts of the several dwelling-houses therein, and of the servants, carriages, horses, mules, and dogs, kept by any person or persons whatever, and of the several persons liable to the other duties in this act mentioned, and of the duties chargeable in respect thereof, and shall inspect and examine the assessments or certificates thereof made and to be made, from time to time, in pursuance of this act, and execute all things belonging to the same, according to the powers vested in them by this and the said recited acts respectively; provided that no inspector or surveyor now or hereafter to be appointed shall act as a commissioner in any matter or thing touching the execution of this act."

Sect. 10. "That every dwelling-house, cottage, or tenement, of whatever description, occupied at the time of making the assessment, shall be brought into charge in respect of the duties set forth in the schedule marked (A.) by the respective assessors, and, in their default, by the respective surveyors and inspectors herein mentioned, according to the number of windows therein, *subject to the powers of discharging the same, as after mentioned*; (a) and every dwelling-house, cottage, or tenement, and other the premises therewith occupied, and hereby charged, as set forth in schedule (B), being, together, of the annual rent of 5*l.* or upwards, (b) shall also be brought into charge in like manner, according to the full and just yearly rent at which the same is really and *bond fide* worth to be let, in respect of the duties set forth in the said schedule marked (B); and, if any assessor or assessors shall omit, in the assessment of the said duties set forth in schedule (A), to charge the occupiers of any house, cottage, or tenement, to the said duties, according to the number of windows therein, or shall omit, in the assessment of the said duties set forth in schedule (B), to charge the occupier of any house, cottage, or tenement, which, with the premises therewith occupied and charged by this act, shall be of the annual value of 5*l.* or upwards, to the said duties, according to the annual rent at which the same is really and *bond fide* worth to be let, whether the occupier of any such house, cottage, or tenement, shall be entitled to be discharged from the same in manner hereinafter mentioned or not, every such assessor shall, for each and every such neglect, forfeit and pay any sum not exceeding 20*l.*, nor less than 5*l.*; and where any such dwelling-house, or premises therewith occupied, shall be situate within more parishes or places than one, then such dwelling-house shall be charged to the said several duties as one entire house, and the premises therewith occupied as belonging to such house in such of the said parishes or places as the surveyor or inspector for the said duties, or any part thereof, shall deem most expedient, to be notified by the certificate of such surveyor or inspector to the commissioners acting for either of such parishes or places."

Sect. 11. "That any person inhabiting a dwelling-house in England, Wales, or Berwick-upon-Tweed, containing not more than six windows in the whole, shall be exempted from the duties in schedule (A), in case such person shall be on the books of such parish or place as receiving parochial relief; and any person inhabiting a dwelling-house in Scotland, containing not more than three windows in the whole, and under the annual rent of 20*l.*, shall be exempted from the duties in schedule (A), in case such person shall be poor and indigent, and shall not be assessed, or liable to be assessed, to any of the duties contained in schedules (B), (C), (D), or (E); which several exemptions shall be proved or claimed in the manner hereinafter mentioned."

Sect. 12. "And, in order to give relief to such persons, as aforesaid, who may be charged to the said several duties set forth in the schedules marked (A) and (B), or either of them; be it further enacted, that where any such house, cottage, or tenement, as is described in the preceding clause, shall be brought into charge, as aforesaid, and the occupier or occupiers thereof shall be entitled to the said exemption, by reason of poverty, as hereinbefore specified, then, and in every such case, the assessor or assessors shall, on the certificate of as-

REGULATIONS,
&c.
43 Geo. 3, c. 101.

No inspector, &c. shall be commissioner.

Every house occupied at the time of making the assessment, shall be brought into charge under sched. (A.) & (B.) subject to discharge (see post, ss. 11, 12).

Penalty on assessors for neglect, 20*l.* to 5*l.*

Houses situate within more parishes than one, may be charged in either parish.

Exemption for poor persons from duties on windows, under schedule A. (See s. 12.)

Manner in which the claim to exemption from duties in schedule A. & B. shall be proved, and the party discharged.

(a) See post, p. 762, in the note. ties on inhabited houses under the value
(b) By 6 Geo. IV. c. 7, s. 1, the duties of 10*l.* per annum are repealed.

REGULATIONS,
&c.

43 Geo. 3, c. 161.

• See s. 13.

Exemptions may be allowed on the present assessments.

Before exemptions are allowed, assessors shall produce certificate of inability of the party, from the minister and inhabitants of the parish.

How occupiers of houses containing more than the number of windows before specified (see s. 11), may be relieved from the duties.

assessment, set opposite the sum charged on the occupier thereof, the fact of his or her being poor, and shall return the same, together with the assessment and a certificate, as hereinafter is mentioned,* to the commissioners for executing this act in the district where such assessment shall be made; and the said commissioners, before the allowance of any such assessment, or making any order thereupon, shall examine the assessor or assessors, who shall respectively attend the said commissioners for that purpose, at such time as they shall appoint, touching the return so made; and if the said commissioners shall, from such examination and from such certificate, as hereinafter is mentioned, be satisfied that any occupier of any such house, cottage, or tenement, charged to the said several duties, or either of them, is entitled to such exemption, it shall be lawful for the said commissioners, after such proof thereof, to strike out the charge against such occupier, leaving the name of such occupier, and the number of windows and rent of such house, in the assessment, and every such occupier shall be exempted accordingly from the said respective duties; which exemption shall, in the like cases, be construed to extend to and shall be allowed on all assessments on such poor persons, of the duties payable at the time of passing this act, which shall have been or shall be made at any time after the commencement of the present year."

Sect. 13. "That before any such exemption or abatement shall be allowed, the assessors shall produce to the said commissioners a certificate under the hands of five or more substantial householders of such parish or place, in vestry or kirk-session assembled, of whom the resident minister in such parish or place shall be one; but in case there shall be no such resident minister in such parish or place, then the churchwardens and overseers of the poor of such parish or place, or two of them at the least, or two or more of the elders of such parish or place, shall concur with such householders in such certificate, certifying thereby, that they have carefully examined the assessment of the duties granted by this act, and the allegations therein made by the assessors touching such persons who shall be therein stated to be poor, and that in their judgment and belief the persons therein certified to be poor are entitled to be exempted by reason of their poverty, and are wholly unable to pay the duties assessed upon them; provided, that if in any parish or place in England, Wales, or Berwick-upon-Tweed, there shall not be five substantial householders, then such certificate may be made by the substantial householders there residing; or if there shall be no churchwardens or overseers of the poor for such parish or place, then such certificate may be granted by the resident minister, or by any two churchwardens or overseers of the poor of any adjoining parish or place, who can certify the truth of such allegations in manner aforesaid, concurring therein with the substantial householders residing in the parish or place where such assessment shall be made."

Sect. 14. "That where the occupier of any house, cottage, or tenement, containing more than the number of windows or lights before specified, shall be brought into charge as directed by this act, and the occupier or occupiers thereof shall, at the commencement of the year for which such assessment is made, be poor and indigent, or shall become so during that year, then, and in every such case, it shall be lawful for such occupier or occupiers to give notice thereof in writing, stating the causes to the assessor, or to the surveyor of the district in which such house is situate, annexing thereto a certificate under the hands of such persons, as aforesaid, certifying that, in their judgment and belief, such person is justly entitled to relief, on account of poverty, for the causes mentioned in such notice; and every assessor shall deliver the notices by him received to such surveyor; and, if such surveyor shall be satisfied of the truth thereof, after due examination of the facts and circumstances, and that such person is unable to pay the duties charged on him or her, and has no probable means of bettering his or her condition within that year, he is hereby required to certify the same to the said commissioners; and if such surveyor shall not be so satisfied, then, on notice thereof to such occupier or occupiers, it shall be lawful for him or them to appeal from such charge to the said commissioners, giving ten days' previous notice thereof to the said surveyor; and, in every case where the surveyor shall certify to the said commissioners that he is satis-

fied of the truth of the claim made by any such occupier or occupiers, and that he or they is or are and will be unable to pay the duties charged on him or her within that year, or if, upon appeal, as aforesaid, it shall appear to the satisfaction of the said commissioners, or the major part of them present, on the oath of such appellant, or by other lawful evidence on oath, produced and shown by such appellant, that he or she is entitled to maintain such appeal, and wholly unable, as aforesaid, to pay the duties charged on him or her, it shall be lawful for the said commissioners to give such relief, either by striking off the whole of the duty so charged, or diminishing the same, as to them shall seem meet and necessary; and which appeals, for the causes in this clause mentioned, may be heard and determined either on the days mentioned in this act for the hearing of appeals in other cases, or at the end of the year, or any day or days to be appointed by the respective commissioners for executing this act; which exemption shall, in the like cases, be construed to extend to and shall be allowed on all assessments on such poor persons of the duties payable at the time of passing this act, which shall have been or shall be made at any time after the commencement of the present year."

REGULATIONS,
&c.
43 Geo. 3, c. 101.

Such exemption may be allowed upon the present assessments.

Sect. 15. "That every house or tenement which shall happen to be unoccupied at the time of making the assessment, shall be inserted as such in the assessment, with the number of windows contained therein, and the annual rent at which the same might be let, if the same shall amount to 5*l.* or upwards; and the assessors, and, in their default, the surveyors and inspectors, shall cause the same to be certified to the said commissioners, from the time of such house or tenement coming into the occupation of any person or persons, and such person or persons shall cause notice thereof to be given to such assessor, surveyor, or inspector, within twenty days after his or their coming into the occupation of such house or tenement; and every person neglecting so to do shall forfeit and pay the sum of 5*l.*, and shall be liable moreover for such neglect to be charged to the said several duties inserted in the assessment for the whole year in which such house or tenement became so occupied; but, on giving such notice, shall be chargeable only from the time of his or her coming into the occupation of such house or tenement, according to the rates prescribed in schedules (A) and (B), estimated on the remainder of such year, commencing from the end of the preceding quarter of the year; and every house or tenement charged to the said duties, although the same shall within the year become unoccupied in the manner mentioned in schedule (A), shall be charged to the said duties for the whole year on the former occupier, or the occupier for the time being, as the case may require, unless notice in writing shall have been given to the assessor for the place of such house or tenement becoming unoccupied; and the commissioners for executing this act are

Unoccupied houses shall be inserted in assessment.

In-coming occupier shall give notice, and be charged with duties from end of the preceding quarter. Penalty, 5*l.*, and the full duties. (a)

On notice given of houses becoming unoccupied, commissioners may discharge or levy assessment.

(a) See schedule B. *post*, p. 795, 6. It has been held that the owner of a house, occupied by him till the 26th of June, is chargeable with the assessed taxes for the remainder of the year,—that is, till the succeeding 5th of April,—although he quitted possession on the 26th of June, and ceased to occupy the house afterwards. *Price's case*, 8 *Price's Rep.* 122.

Semble, that houses left unoccupied by the owner during part of the year, where the furniture is not taken away, are liable to the duties for the whole year. *In re Colyton*, 8 *Price*, 117.

Houses let as lodgings in places of public resort, and which are so occupied by the various families hiring them for the season (much less than half-a-year at a time), and are, during the remainder of the year, left wholly unoccupied, are chargeable to the assessed

taxes for the entire year. *Sollett and Glass's case*, 8 *Price*, 123.

Persons letting houses furnished, as lodging-houses, for a part of the year, not being at any time occupied for more than six months successively, and paying three quarters of a year's assessed taxes, are still liable to be charged for the other quarter; and the commissioners have no power to make any abatement in the assessment; although, during the quarter for which the abatement be claimed, the houses have not been opened. *Skinner's case*, 8 *Price*, 124.

A person keeping a house for the purpose of being let as a ready-furnished lodging-house, is chargeable for the whole year's duty, although it be unoccupied and unfurnished for one entire quarter. *Wright's case*, 8 *Price*, 125.

The windows of a shop on the ground floor of a dwelling-house, having no in-

REGULATIONS, hereby empowered, at their discretion, to discharge such assessment, or to direct the duties to be levied according to the directions of this act, as to them &c.

43 Geo. 3, c. 161. shall seem just." (a)

Commissioners, inspectors, &c. may inspect poor-rates.

Penalty on refusal not exceeding 10*l*.

Notice shall be given to assessor by occupiers of houses, managers of hospitals, &c. entitled to exemption from duties under rules in schedules A. and B.

Sect. 16. "And, for the better information of the commissioners appointed to carry this act into execution, and of the surveyors and persons to be appointed assessors as aforesaid, and the better to enable them to perform their duty; be it further enacted, that the said commissioners, or any two or more of them, and the said surveyors, inspectors, and assessors, or any one or more of them, or any person or persons authorized by them, or any of them, shall have liberty, from time to time, and at all seasonable times, to inspect and to take copies or extracts from any book or books kept by any parish officer or officers, or other person or persons, of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, or any contributions under the management of the kirk-sessions in the respective parts of Great Britain aforesaid, in any place within the limits for which they shall be appointed; and if any person or persons, in whose custody or power any of the said books shall be, shall refuse or neglect to permit the said inspection, or the copies or extracts to be made, as aforesaid, or to attend the said commissioners with their books, when required so to do, then and in every such case, every person who shall so refuse or neglect, shall for every such offence forfeit and pay any sum not exceeding ten pounds."

Sect. 17. "That where any house, cottage, or tenement, or any windows therein, or any hospital, charity-school, poor-house, or licensed chapel, ought to be exempted from the duties hereby payable, by virtue of any of the rules contained in the schedules marked (A) and (B), hereunto annexed, the occupier or occupiers of such house, cottage, or tenement, and the person or persons having the conduct or management of such hospital, charity-school, poor-house, or licensed chapel, shall give notice thereof to the assessor or assessors, which notice shall contain the number of windows in such house, cottage, or tenement, and in such hospital, charity-school, poor-house, and licensed chapel respectively, distinguishing the number chargeable by this act, and the number claimed to be exempted as aforesaid: and the assessor or assessors shall make diligent inquiry into the same, and shall state on the assessment, to the best of his or their

ternal communication with the house, are chargeable with the duty. *In re Reinhardt*, 8 Price, 106.

The lower part of a smaller house, used as an office, adjoining the dwelling-house of the party, and having an internal communication with the latter, is not exempt from the assessed taxes on windows within the first section of the 57 Geo. III. c. 25, on the ground of its being used as offices, and for no other purpose.

Nor is a room, having no communication with the dwelling-house, if it be part of the house, within the exemption of the statute, as being used only for an office. *R. v. Dryden*, 8 Price, 103.

The windows of the upper story of a house, of which the lower part or ground floor is occupied by the owner as a dwelling, are chargeable with the duties on houses and windows, although let to a trader as a warehouse, and not used by him for any purpose of habitation, and although there be no communication between the upper story so let and the lower part of the house so occupied for habitation. *In re Cowell*, 8 Price, 105.

Houses built on lands embanked from the Thames, in pursuance of the 7 Geo. III. c. 37, which vests those lands in the

owners, "free from all taxes and assessments whatsoever," are not liable to be rated for the relief of the poor. *R. v. the City of London Gas Light and Coke Company*, M. & R. Rep. vol. 2, 12; 8 B. & C. 54. But this act does not exempt the occupiers of such houses from the payment of the house and window duties imposed by 38 Geo. III. c. 40. *Perchard v. Heywood*, 8 T. R. 468; *Williams v. Prichard*, 4 T. R. 2.

(a) The commissioners executing the several acts relating to the duties of assessed taxes for districts, are not entitled, under the 43 Geo. III. c. 161, s. 15, empowering them to discharge assessments at their discretion, to discharge persons charged for houses under sect. 10, on the ground of not having been occupied during the whole year, *unless notice in writing* have been given to the assessor of such houses having been unoccupied. And, if the commissioners should insert any such allowance in their schedule of discharge (as in that case the opinion of the judges cannot be taken, because that can only be done on a case of appeal), the Court of Exchequer will order them to amend their schedule by striking it out. *In re Colyton*, 8 Price, 117.

knowledge and belief, the number of windows entitled to such exemption, and shall return such statement, together with the assessment, to the commissioners for executing this act; and the said commissioners shall examine into the truth of such statements, by examination of the assessor or assessors, in manner before directed in cases of occupiers to be discharged for poverty,* and, on due proof thereof, it shall be lawful for the said commissioners to discharge such number of windows from the said assessment as in their judgment shall be within the exemptions allowed by this act."

Sect. 18. "That no window or light shall be exempted from the duties made payable by this act by reason of its having been stopped up, unless such window or light shall be stopped up effectually with stone or brick, or with the same kind of materials whereof that part of the outside walls of such dwelling-house, in which such window or light shall have been, doth chiefly consist."

Sect. 19. "That nothing herein contained shall be construed to charge any window or light in the roof of any dwelling-house which shall be stopped up on the outside thereof effectually with materials of the like nature of which the outside of the roof shall chiefly consist, nor any window or light which shall have been stopped up before the commencement of this act, according to the directions of the laws in force at the time of passing this act."

Sect. 20. "That from and after the passing of this act, no window or light shall be newly opened or made in any dwelling-house or office belonging thereto, nor shall any such window or light which shall have been stopped up at the time when the assessment in respect of such dwelling-house shall be made for the then current year, be restored, nor shall any window or light which has been charged in that year be stopped up, without, in each of the cases, six days' previous notice thereof in writing being given by the occupier or occupiers of such dwelling-house, to the surveyor or inspector of the said duties, or one of them, for the place in which the assessment was made, describing therein the particular situation of every such window or light in such dwelling-house, and the number of such windows or lights, if more than one, so to be made, restored, or stopped up, on pain that the occupier or occupiers of such dwelling-house, neglecting to give such notice, shall forfeit and pay the sum of 10*l.* for every window or light so newly made, restored, or stopped up as aforesaid, and which penalty shall be paid over and above any duty payable in respect of such dwelling-house."

Sect. 21. "That in case any surveyor or inspector herein mentioned shall receive any notice, or shall otherwise find or discover that any window or light in any such dwelling-house, liable to the said duties, hath been newly made or restored as aforesaid, which window or light hath not been charged in the assessment for that year, then such surveyor or inspector shall and is hereby required to certify the same in writing under his hand, by way of charge, to any two or more of the commissioners for putting this act in execution, and shall state in such certificate to what amount the person or persons liable to the said duties hath or have been underrated in the assessment for that year; and thereupon the said commissioners, or any two or more of them, shall cause such assessment to be amended according to such certificate, and the duties to be charged shall be levied thereon, from the commencement of the year in which such window or light shall have been restored, as if such window or light had been originally included in such assessment: provided always, that if the commissioners shall be of opinion that any window or light so restored in any dwelling-house shall have been stopped up at the time when the assessment was made, with intent to evade the payment of the said duties, they shall charge the occupier of the said dwelling-house at the rate of double the sum by which the assessment shall be increased by reason of such certificate: provided, also, that every such assessment, when amended, shall be liable to be appealed against in such manner as if the same had been originally so made."

Sect. 22. "That no assessment shall be subject to appeal, nor any abatement of the duties allowed in any year, by reason of any windows or lights being stopped up, unless it shall be proved to the satisfaction of the commissioners

REGULATIONS,
&c.

48 Geo. 3, c. 161.

* See s. 12.

How windows shall be stopped up. (a)

Proviso for windows in roofs and other windows already stopped up.

Windows shall not be made, restored, or stopped up, without six days' notice to surveyors.

Penalty, 10*l.* per window.

Surveyors shall charge windows newly made, or restored, from commencement of the year.

Such windows in certain cases liable to double duties.

Appeal.

No abatement for windows unless stopped before commencement of the year.

(a) See, also, the rules in 48 Geo. III. c. 55, schedule A, *post*, p. 795 to 798.

REGULATIONS,
&c.

43 Geo. 2, c. 161.

Every assessment in England shall be for a year, from April 5, payable quarterly;

under warrant of commissioners.

Arrears recoverable as a debt on record.

Assessments in Scotland shall be for a year from May 24, payable half-yearly.

Penalty on non-payment, treble value. (See 43 Geo. 2, c. 150.)

Assessors shall yearly cause general notices to be affixed on the church door, &c. requiring lists to be delivered (see ss. 27, 28); which shall be deemed sufficient notice.

for executing this act, that the same windows or lights were respectively stopped up according to the directions of this act, previous to the commencement of the year on which the said assessment shall or ought to have been made."

Sect. 23. "That every assessment to be made of the said duties in pursuance of this act in England, Wales, and Berwick-upon-Tweed, shall be in force for one whole year, commencing from the 5th day of April in the year in which the same shall be made, and ending on the 5th day of April then next following, and the said several duties shall be paid by quarterly instalments, on the days hereinafter mentioned (that is to say), on the 20th day of June for the quarter commencing from the 5th day of April, and ending on the 5th day of July, the 20th day of September for the quarter commencing from the 5th day of July, and ending on the 10th day of October, and the 20th day of December for the quarter commencing from the 10th day of October, and ending on the 5th day of January, and the 20th day of March for the quarter commencing on the 5th day of January, and ending on the 5th day of April in every year, the first payment thereof to be made on the 20th day of June, 1804; and it shall be lawful for the respective commissioners, or any two or more of them, and they are hereby required, as soon as the assessment shall be made, to issue out and deliver to the respective collectors their warrants for the speedy and effectual levying and collecting the said duties, as the same shall become payable, by quarterly instalments as aforesaid; and such part thereof as cannot be so levied and collected may be recoverable as a debt upon record to the king's majesty, his heirs and successors, with full costs of suit and all charges attending the same; and, when so recovered, the said duties shall be paid to the receiver-general in aid of the parish or place answerable for the same."

Sect. 24. "That every assessment to be made of the said duties in pursuance of this act in Scotland, shall be in force for one whole year, and shall commence from the 24th day of May in the year in which the same shall be made, and end on the 24th day of May then next following; and the said last-mentioned duties shall be paid by half-yearly instalments on the days hereinafter mentioned (that is to say), on or before the 29th day of September and the 25th day of March in every year; the first payment thereof to be made on or before the 29th day of September, 1804; and such payments shall be made by the person charged with the said duty, his or her executors or administrators, by themselves or others in their behalf, to the collector of the said duties personally, or at his office, and the said collector shall, on payment thereof, give acquittances (without taking anything for such acquittance, the stamp duty for the same excepted), unto the several persons who shall pay the same, which shall be a full discharge to the persons paying the same, against his majesty, his heirs and successors; and every person so charged shall, in case of his or her not paying the same upon the day upon which he or she is hereby appointed to pay the same, or within three days thereafter, forfeit treble the value and extent of the duty with which he or she stands charged, to be recovered as the said duties may be recovered by the said last-mentioned act of the present session of Parliament."

Sect. 25. "That the assessors for the time being shall, within twenty-one days after the respective times appointed for the commencement of the said duties, and for every subsequent year, within twenty-one days after the commencement of the respective duties for each year, cause general notices to be affixed on the doors of the church or chapel, or market-house, or cross (if any) of the city, town, parish, or place for which such assessor shall act; and if such place shall not have a church or chapel, or market-house, or cross, then on the nearest church or chapel door of any adjoining parish, requiring all persons residing in the said city, town, parish, or place, who are by this act required so to do, to make out and deliver to the respective assessors, within fourteen days after the date of such notice, such lists or declarations as are herein required; and such general notice shall, from time to time, when the same shall be affixed, be deemed sufficient notice of the time within which such returns shall be required to be made in each year, to all persons residing or being in such city, town, parish, or place, and the affixing the same in manner before directed shall be deemed good service of such notice to all persons within the limits of

such city, town, parish, or place; and the said respective assessors shall cause the said notices from time to time to be replaced (if necessary) during the said space of fourteen days previous to the time required for the delivery of such lists or declarations as aforesaid; and every person wilfully tearing, defacing, or obliterating any such notice so affixed, shall forfeit for every such offence a sum not exceeding 20*l.* nor less than 5*l.*

Sect. 26. "That besides such general notices as aforesaid, the said respective assessors shall, within the respective periods before mentioned, in every year, give or leave at every dwelling-house, where any person liable or supposed to be liable to the duties hereby made payable, as set forth in the several schedules to this act annexed, marked C, D, E, F, G, H, I, and K, or any of them, shall usually reside within the limits of the places for which such assessors act, one notice to and for the occupier thereof; and where such dwelling-house shall be let in different apartments, and occupied distinctly by different persons or families, a like notice to and for the occupier of each distinct story or apartment, provided any person liable or supposed to be liable as aforesaid shall reside there, and also a like notice to and for every person so liable, then residing in such dwelling-house as a lodger or inmate, within the knowledge of such assessor or assessors, requiring such persons respectively to prepare and produce, within twenty-one days next ensuing the date of such notice, a list or lists, or declaration or declarations in writing, in the forms and in the manner herein-after required."

Sect. 27. "That every person who shall have retained or employed any male servant or servants, or other male person or persons herein described or mentioned, or kept any carriage, horse, mule, or dog, or shall have used or exercised the trade or business of an horse-dealer or coachmaker, or seller of carriages by auction or on commission as aforesaid, or shall have used or worn hair-powder or any armorial bearing or ensign, in the course of the year ending on the day next before the respective days appointed for the commencement of the said duties in the year 1804, shall, before the end of six weeks thereafter, whether any previous notice for that purpose shall have been delivered or not, cause to be prepared true and particular lists in writing, signed by such person or on his or her behalf, which shall contain the parish or place, and the parishes or places where such persons shall then or usually reside, and one of such lists shall also contain the greatest number of male servants retained or employed by such persons, and also the names of the several other male persons by them retained or employed at any one time in the course of the year ending as aforesaid, in any of the capacities mentioned in the schedules hereunto annexed, and the names of such servants and other persons, and the several capacities in which they shall serve; and whenever the person required to return such list shall be liable to the duty on servants kept by any male person never having been married, he shall be required to denote the same, by adding to the signature of his name the letter B.; another of the said lists shall contain the greatest number of carriages mentioned or described in the schedules annexed to this act, kept by such person at any one time within the like period, describing therein, by its usual name and description, the particular kind and denomination of such carriage by which the body or bodies of such carriages are usually called or known, and distinguishing the number of such carriages with four wheels from the number of such carriages with less than four wheels, and also the number of bodies of such carriages which shall successively have been used on the same carriage or number of wheels, and also the number of horses by which such carriages with less than four wheels shall have been drawn at any time within the like period, and also the number of such carriages liable as taxed carts; another of the said lists shall contain the greatest number of horses, mares, or geldings, kept and used by such person for the purpose of riding, or drawing any carriage chargeable with the duty made payable by this act, at any one time within the like period; another of such lists shall contain the greatest number of all other horses, mares, or geldings, and mules, kept by such person at any one time within the like period, which shall on any occasion have been used as herein mentioned; another of such lists shall contain the greatest number of dogs kept by such person within the like period, distin-

REGULATIONS,
&c.

33 Geo. 3. c. 161.
Penalty for defacing such notices, 20*l.* to 5*l.*

But assessors shall also leave notices at dwelling-houses, for persons liable to duties in schedules C—K, to return lists.
(See *ss.* 27, 28.)

Persons liable to any of the duties in schedules C—K, in the course of the year ending on the days appointed for commencement of the duties (see *s.* 1), shall return lists of particulars thereof, &c. to the assessors, within six weeks after such days.

REGULATIONS,
&c.

43 Geo. 3, c. 161.

quishing therein any greyhound, hound, pointer, setting-dog, spaniel, lurcher, or terrier, from any other dog, where one dog only shall be kept by such person; another of such lists, if the same be returned by any person who shall have used or exercised the trade or business of an horse-dealer, shall contain the place or places where the same shall have been so used or exercised within the like period, and also the greatest number of horses, mares, or geldings, kept by him or her at any one time within the like period, distinguishing whether the same shall have been kept for sale, or been used by him or her, or let to hire, and the number of each so kept or used, and for what purpose, so that the duties hereby made payable shall be duly charged; and another of such lists, if the same shall be returned by any coachmaker or maker of carriages before mentioned, or by any seller of such carriages by auction or on commission, as herein is mentioned, shall contain the place or places where such trade or business shall be carried on; and another of such lists, if the same be returned by any person who shall have worn hair-powder, or used any armorial bearing or ensign, within the like period, shall distinguish therein the particular duty and duties, and the amount thereof, to which such person is liable, with a declaration whether he or she is a housekeeper or one of the family, or a lodger, inmate, apprentice, or servant, abiding in the house of any person; and every list returned by any occupier of a dwelling-house or distinct apartment as aforesaid, shall contain the names and places of abode of every person resident in such dwelling-house, distinguishing whether such person so residing be of the family, or be lodgers or inmates, or apprentices or servants; and in case such householder or occupier having unmarried daughters, or any servant or servants, shall be desirous of being personally charged to the duties hereby imposed on persons wearing hair-powder as aforesaid, instead of his or her unmarried daughters, or his or her servant or servants, as herein is allowed, then also such lists shall contain the number and names of such unmarried daughters and servants respectively to be so charged to him or her, and the capacities in which such servant or servants shall serve; and every such person shall deliver or cause such lists to be delivered to the assessor or assessors of the said duties for the district, parish, or place, where such person shall reside or be, or leave or cause the same to be left at his or their dwelling-house or houses, or one of them, at or before the expiration of the time appointed by this act for the delivery thereof; and every person who shall have retained, employed, kept, or used any servants, or other male persons, carriages, horses, mules, or dogs, shall be charged for the greatest number of servants, carriages, horses, mules, and dogs retained or employed, kept or used by him or her at any one time within the year ending as aforesaid; and every person who shall have used or exercised the trade or business of an horse-dealer, or the trade or business of a coachmaker, or maker of carriages, or of a seller of carriages by auction or on commission, or shall have worn or used hair-powder, or any armorial bearings, within the year ending as aforesaid, shall be assessed and charged by the respective assessors for the year commencing from that day, which assessments shall be made at the rate specified in the said schedules marked C, D, E, F, G, H, I, and K, and according to the lists, which shall or ought to have been returned as aforesaid, subject to such powers of surcharge as by this act are directed and given; and the assessments on the returns so to be made shall be deemed an assessment for the year commencing from the respective days in the year 1804, appointed for the commencement of the said duties."

Such persons shall be charged according to such lists for the year commencing from those days.

Lists shall be returned annually in like manner.

Sect. 28. "That every person liable to the said duties shall, in every year subsequent to the respective days appointed for the commencement of the said duties, within six weeks thereafter, and he and she is hereby required yearly, whether any previous notice for that purpose shall have been delivered or not, to cause to be prepared and delivered to the respective assessors before mentioned for the time being, true and particular lists of the greatest number of such servants or other male persons retained or employed, and of carriages, horses, mules, and dogs kept by such person, or of his or her having used or exercised the trade or business of an horse-dealer, or coachmaker, or maker of carriages as aforesaid, or of a seller of carriages by auction or on commission,

as aforesaid; or of having worn or used hair-powder, or any armorial bearings or ensigns, at any one time in the course of the preceding year ending on the then preceding 5th day of April; which lists shall be prepared in the form before prescribed, and according to the directions of this act in respect thereof; and such person shall renew the same in the same manner in every year so long as such person shall be liable to the said duties or any of them, as aforesaid; and every person shall annually be chargeable in respect of the greatest number of servants or other male persons, carriages, horses, mares, or geldings, mules, and dogs, retained, employed, kept, or used by him or her at any one time within such preceding year, and also in respect of his, her, or their having used or exercised the trade or business of an horse-dealer, or coachmaker, or maker of such carriages, or a seller thereof by auction or on commission, as aforesaid, or of having worn or used hair-powder, or armorial bearings or ensigns, within the same period; and the assessment made thereupon shall be deemed an assessment made for the year in which such returns shall or ought to have been made."

REGULATIONS,
&c.
43 Geo. 3. c. 161.

Assessment shall be for the year in which returns are made.

Sect. 29. "That every person who, from and after the respective days appointed for the commencement of the said duties, shall begin to retain or employ any such male servant, or other male person herein described, or keep or use any such carriage (such servant or carriage not being in the place or stead of any former one liable to the like duty), or to use or exercise the said trade of an horse-dealer, or coachmaker, or maker of such carriages, or a seller thereof by auction or on commission as aforesaid, or to wear or use hair-powder, or any armorial bearings or ensigns, or who shall cease to retain or employ any male servant, or to keep or use any carriage liable to the duty, without retaining or employing any other male servant, or other male person herein described, or keeping or using any other carriage liable to the like duty, in the place or stead of such servant or carriage, or who shall cease to use or exercise the said trade or business of an horse-dealer, or of a coachmaker, or maker of such carriages, or a seller thereof by auction or on commission, or to wear or use any hair-powder, or any armorial bearings or ensigns, shall, within twenty days after he or she shall so begin or cease to retain or employ such servant, or other male person, or to keep or use such carriage, or to use or exercise such trade or trades, or to wear or use any hair-powder, or any armorial bearings or ensigns, cause notice thereof in writing to be given to the assessor or assessors for the district, parish, or place where he or she shall reside, and a list of the number of such servants and carriages, and the increase or decrease made thereby, and the particular rate or duty to which he or she is liable as having used or exercised such trade or trades, or worn or used hair-powder, or armorial bearings or ensigns, describing in such notice every such servant or other male person by his proper name, and the several capacities in which such servants or other male persons respectively shall be, or shall have been retained or employed; and also describing every such carriage by its usual name and description, distinguishing the number of bodies used with and of wheels belonging to each such carriage, and the number of horses used in drawing any such carriage with less than four wheels, and also distinguishing each such carriage liable as a taxed cart, and the name or names and place of abode of the person or persons who ought to return such lists."

Every person beginning to keep a male servant, or carriage, or to carry on the business of a horse-dealer, coach-maker, &c., or to wear hair-powder, or armorial bearings, and every person ceasing to keep such servant, &c., or to carry on such business, &c., shall give notice thereof within twenty days. (a)

Sect. 30. "That if any person shall neglect or refuse to make out, sign, and deliver such lists as are herein directed, or any of them, within the respective times herein mentioned, then the assessor or assessors shall, from the best information he or they can obtain, make an assessment upon such person so refusing or neglecting for or in respect of every servant, carriage, horse, mule, or dog, retained or kept by him or her as aforesaid, and of every person having used or exercised such trade or trades as aforesaid, or worn or used hair-powder, or armorial bearings or ensigns, as aforesaid, according to the rates specified in the said schedules, and shall include the same in the certificate of the assessment to be delivered to the commissioners as herein directed; and every such assessment so made upon any such neglect or refusal shall be final and conclu-

How assessors shall make assessment on persons refusing or neglecting to deliver lists.

REGULATIONS,
&c.

43 Geo. 3, c. 161.
App-al against
such assessments.

Assessors not
bound by lists
delivered.

Housekeepers
shall require de-
claration or re-
turns from
lodgers, &c.

Penalty on neg-
lect and refusal
in either party,
50*l*.

Assessors shall
leave notices for
lodgers, &c.

* See s. 37.

Persons having
divers places of
residence, &c.,
shall deliver lists
at each.

Penalty on per-
sons declaring to

sive upon the person thereby charged, who shall not be at liberty to appeal therefrom, unless such person shall prove that he or she was not at his or her dwelling-house or place of abode at the time of delivery of such notice, nor between that day and the time limited for delivering such list as aforesaid to the assessor, or unless such person shall allege and prove such other excuse for not having delivered his or her list, as the commissioners for executing this act shall in their judgment think reasonable and sufficient."

Sect. 31. "That such assessors shall not be bound by such lists as shall be delivered to them respectively in pursuance of this act, but shall be at liberty, if they shall find upon due examination that any person, description, article, matter, or thing, which ought to be contained in such lists, is or are omitted, or untruly stated therein, to make a true assessment upon every such person, according to the intent and meaning of this act, of the real charge which ought to be imposed on such person."

Sect. 32. "That every occupier as aforesaid, in whose dwelling-house or apartment any person liable to the duties by this act made payable, or any or either of them, shall reside as a lodger or inmate, shall, for the purpose of making accurate returns, cause the contents of the notice left at his or her dwelling-house to be read over and made known to each and every such lodger or inmate not having received a like notice, requiring them respectively to declare to him or her, and attest the return to be made, whether he or she be liable to the said duties, or either of them, or be exempted therefrom, or whether he or she have another place of ordinary residence where he or she intends to be charged; and every person so resident, being thereunto required as aforesaid, shall be obliged to make such declaration; and if any such lodger or inmate shall wilfully refuse to give an account as required by this act, or to attest the return to be made thereof, every such person shall forfeit and pay the sum of 50*l*.; or if any occupier as aforesaid, by whom any such declaration ought to be required, or to whom any such declaration shall be made, shall neglect to require the same, or to insert the same in the return to be made to the assessor or assessors, in pursuance of this act, every such person shall also forfeit the sum of 50*l*."

Sect. 33. "That the said assessors shall, upon receipt of any list containing the name of any lodger or inmate returned liable to any of the said duties as chargeable within the parish or place where the said assessors act, give or leave the like notice for every such person to prepare and produce, within the like period, a list or declaration signed as aforesaid; and every such person shall, within twenty-one days after notice left at such dwelling-house, make out a list or declaration, as the case shall require, and sign the same in the manner before directed, under the penalty herein mentioned for neglecting to deliver any such list or declaration."*

Sect. 34. "That every person who shall have divers places of residence within any part of Great Britain, or shall keep any servants or other male persons herein described, carriages, horses, mules, or dogs, at divers places within Great Britain, and every person being an inmate or lodger at the time of such notices being given as aforesaid, and having an ordinary residence at some other place or places, whereat or at one of which places such person ought to be charged, shall be obliged to deliver all such lists as aforesaid at each and every of such places, and to insert in every such list the name or description of each person, article, matter, and thing, for which such person is liable to any of the said duties, or which ought to be returned according to the directions of this act; and shall also, in every such list, specify the particular persons and number of each description of articles aforesaid respectively intended to be paid for within the limits of the district, parish, or place, where such list shall be delivered, and shall also, at the same time, make his or her declaration, to be inserted in such list, and signed by him or her, specifying the particular counties or county, and parishes or parish, wherein each such other place of his or her residence is situate, and also the particular counties or county, and parishes or parish, wherein the said duties, or any part of the said duties, are or is intended to be paid."

Sect. 35. "That if any person, having delivered his or her declaration to pay

the said duties in any other parish, ward, or place, than in the parish, ward, or place, where such list shall be delivered, shall not return a list in such other parish, ward, or place, according to such declaration, in order to his or her being regularly brought into charge by the assessors for such other parish, ward, or place, every such person so offending shall forfeit and pay the sum of 50*l*."

Sect. 36. "That every person claiming to be within any of the exemptions allowed by this act, in or by any of the schedules hereunto annexed, marked C, D, E, F, G, H, I, or K, except of the royal family, in such cases where they are specially exempted, shall make a due return thereof, and declare the cause or causes of such exemptions, such declaration to be specified in or annexed to the lists to be by him or her delivered; and if any dispute shall arise whether the person be entitled to such exemption, the proof thereof shall lie on the person claiming such exemption, who, on any charge or surcharge before such commissioners, or on any suit or prosecution, shall be permitted to allege the same on oath or affirmation, or to prove the same by lawful evidence to be produced and shown by him or her; provided that no such exemption shall be allowed, unless the same, and the cause thereof, shall have been duly returned to the assessor or assessors as aforesaid."

Sect. 37. "That if any person, liable to the said duties, or any of them, in respect whereof a list or declaration ought to be delivered, or coming within any of the exemptions contained in this act, shall neglect to deliver a list or lists, or a declaration or declarations, according to the directions of this act, in every parish or place where the same ought to be delivered, or shall omit any person, or any description, article, matter, or thing, which ought to be contained therein, according to this act, or shall make an untrue return of any particular therein, he or she so offending shall forfeit and pay the sum of 50*l*. over and above any duty chargeable as aforesaid."

Sect. 38. "That the penalty by this act imposed, as last aforesaid, for omitting to insert in the lists or declarations delivered, as hereby required, any person, or any description, article, matter, or thing, which ought to have been contained therein, shall not be sued or prosecuted for in any case where the person or persons against whom the suit or prosecution shall be brought, shall, before the commencement thereof, have been surcharged for the same cause, and on the same account, and assessed in double the duty hereby made payable, or any proportion thereof, according to the directions of this act."

Sect. 39. "And whereas divers persons may retain or employ servants, or keep carriages, horses, mules, or dogs, at places where they themselves have no houses or places of residence, and other persons liable to the duties made payable by this act, or some of them, may come into or to reside in places after the time appointed by this act for returning the lists before mentioned, not having been charged therein, or may have no fixed place of residence: be it further enacted, that in every such case it shall be lawful for the assessor or assessors, surveyor or surveyors, inspector or inspectors, within and for such districts or places respectively, at any time or times, and they are hereby strictly required and enjoined in every case within their knowledge respectively, to deliver or leave such notices as are hereinbefore directed to be given, at the house or houses where such persons shall reside or be, or where such servants, or other male persons before described, carriages, horses, mules, or dogs, shall be kept; and all and every such persons, and also all and every person or persons having the care, superintendence, or management of such servants, or other male persons before described, carriages, horses, mules, or dogs, shall deliver or cause to be delivered such list or lists as aforesaid, signed by them respectively, conformably to the directions hereinbefore contained, to the assessors, surveyors, or inspectors, within and for the respective districts or limits where any such servants, carriages, horses, mules, or dogs, are or shall be kept, or where such persons shall then reside or be, within twenty-one days after the delivery of such notices, and shall also deliver to them respectively a declaration where they, or the persons to whom such servants, or other male persons before described, carriages, horses, mules, or dogs, do belong, have been assessed for that year to the duties hereby made payable, together with the

REGULATIONS,
&c.

43 Geo 3, c. 161.
pay duties in any place, and not delivering list there, 50*l*."

Claims of exemption (except with respect to the royal family) shall be returned to the assessors, and proved on oath, &c.

Penalty for neglect, omission, or falsity in delivering lists or declarations, 50*l*. and duty.

Penalty for omissions shall not be sued for where the party is surcharged.

In case of persons employing servants, &c., where they have no residence, or coming to reside in districts after time for returning lists, or having no fixed place of residence, notice shall be given and lists returned, and declaration of assessment, &c. elsewhere.

REGULATIONS,
&c.

43 Geo. 3, c. 161.

In default, assessments may be made upon them.

Penalty for removing without delivering list, &c. 50*l*.

Persons letting to hire horses so that the stamp-office duty shall not be chargeable, or letting servants or carriages, shall deliver lists of the number and the names of the hirers.

Hirers of such horses, servants, and carriages, shall return lists thereof.

Surveyors may surcharge in default of returns the hirers of servants, &c., and the progressive duties for one year shall be charged on such hirers, unless on proof that the parties letting have been charged.

usual place or places of abode of themselves, or of the persons to whom the servants, or other male persons before described, carriages, horses, mules, and dogs, under their care, superintendence, and management, do belong, and the names of such persons; or in case no such assessment, or no sufficient assessment, shall then have been made, then where they or the persons to whom such servants, or other male persons before described, carriages, horses, and mules, do belong, shall have delivered their lists, in order to their being so assessed under the like penalties as are herein imposed on persons chargeable with the said duties for not delivering lists in the parishes and places where they respectively reside; and every person who shall appear by such return, or otherwise, not to have been assessed in the full sum of which he or she ought to be assessed, or not to have returned the lists hereby required for the purpose of being so assessed in some other parish or place in Great Britain, or who shall not make any such return, may be chargeable to all the said duties by this act made payable, and for which returns ought to be made, either in the parish or place where such last-mentioned notice shall have been delivered, in like manner as if such person actually resided in such parish or place, or in the parish or place where such persons shall have their ordinary residence; and if any person on whom such notice shall have been served, shall remove from such parish or place, without having delivered such list or declaration, he or she shall forfeit the sum of 50*l*."

Sec. 40. "That every person letting to hire any horses in such manner as not to be chargeable to the stamp-office duty made payable by law on horses let to hire, or letting any servants or carriages, shall annually return a list of the greatest number of such servants, carriages, and horses kept by him or her at any time in the prior year, in like manner, and within and for the like period, and under the like penalties, as returns of other servants, carriages, and horses, subject to the duties by this act made payable, are directed to be made; and every such list shall specify the name and place of abode of the person or persons for whose use or in whose service such servants, carriages, and horses shall have been or shall be employed, and the number of each let to hire to every such person, and the period of each letting, according to the number of servants, carriages, and horses which shall or ought to be contained in such list, the said duties by this act made payable shall be charged on the person or persons letting or hiring such servants, carriages, and horses, as the case may require."

Sec. 41. "That where any person shall hire or shall have hired any horses, in such manner that the stamp-office duty payable by law on horses let to hire, shall not be chargeable on such letting, or shall hire or shall have hired any servants or carriages, then such hirer shall annually return a list of the greatest number of such servants, carriages, and horses, to the assessor or assessors of the parish or place or parishes or places where such hirer shall reside or be at the time such return ought to be made, as the case may require, in like manner, and within and for the like period, and under the like penalties, as returns of other servants, carriages, and horses, exempted from the said annual duties by this act, are directed to be made; and every such list shall specify the name and place of abode of the person or persons by whom such servants, carriages, and horses shall have been or shall be let to hire, and the period of each letting."

Sec. 42. "That where any horses shall have been, or shall be let to hire, in such manner as not to render the person or persons letting the same liable to the said stamp-office duty, or where any servants or carriages shall be let to hire, and the hirer of such servants, horses, or carriages shall not make such return as by this act is required, then and in such case the duties chargeable in respect thereof for one year, shall and may be charged upon and paid by the person or persons hiring such servants, carriages, and horses, by the surcharge of the assessor, surveyor, or inspector, over and above the penalty incurred for any neglect or omission as aforesaid, unless the person or persons letting the same shall have been brought into charge for the same servants, carriages, and horses respectively; and if any dispute shall arise whether the person or persons so letting to hire any servants, carriages, or horses, shall have been brought into charge for the same, the proof thereof shall be on the hirer of

such servants, carriages, and horses so surcharged, who, on such surcharge, shall be permitted to allege the same on oath, or solemn affirmation, or to prove the same by lawful evidence to be produced and shown by him or her: provided that the party hiring the same shall not be exempted, unless the exemption and the cause thereof shall have been duly returned to the assessor or assessors as aforesaid; and in every case where the said duties shall be chargeable on the hirer or hirers of such servants, carriages, and horses, making default as aforesaid, the progressive duties made payable thereon, by schedules C, No. 1, D, No. 1, and E, No. 1, respectively shall be charged."

Sect. 43. "That every inhabitant householder of any lodging-house, in which there shall be any lodger residing therein liable to any of the duties hereby made payable, of which lists are hereby required to be delivered, shall from time to time enter in a book an account of every person so liable; and every livery-stable keeper, or other person receiving any horses or carriages to stand at livery, or delivered to him or her to be kept, shall also from time to time enter in a book an account of every carriage or horse so standing at livery, or delivered to be kept by him or her; and every person letting any horses to hire in such manner as not to be chargeable to any duty payable by law on horses let to hire, or letting any servants or carriages, shall also from time to time enter in a book an account of such horses, servants, and carriages, and the number thereof, and the periods of each letting, and also the names of such servants, and the descriptions of such carriages; and every horse-dealer shall also enter in a book an account of the number of horses kept by him, whether for sale or use, distinguishing the number kept for sale, and the number kept for use, and to what duty the same are respectively liable; and every such coachmaker or maker of such carriages shall also enter in a book the number and kinds of carriages by him built and constructed for sale, distinguishing the number of wheels of each, and the number sold, and the names and places of abode of the persons to whom sold, and the days on which each carriage was delivered or sent out of his or her shop or warehouse; and every such seller of carriages by auction or on commission as aforesaid, shall also enter in a book the number and kinds of carriages sold by him or her, distinguishing the number of wheels of each, and the days on which such carriages were sold respectively; all which books shall, at all reasonable times in the day-time, be open to the inspection of the assessor, surveyor, or inspector of the place where such person shall reside as aforesaid; and every person hereby required to enter and keep such account respectively, shall, if in England, Wales, and Berwick-upon-Tweed, within twenty days after the 5th day of July and the 10th day of October, 1804, and within twenty days after the 5th day of January and the 5th day of April, the 5th day of July, and the 10th day of October in every subsequent year, and if in Scotland, within twenty days after the 29th day of September, and the twenty-fifth day of March yearly, deliver a true copy in writing of all and every entry made in such book or books respectively within the preceding quarter of the year, containing the several matters and things before directed, to the assessor or assessors of the parish or place where he or she shall reside, for the use of the surveyor or inspector of the said duties, or to such surveyor or inspector; and, when required so to do by such surveyor or inspector, every such person, or his or her chief servant, workman, or manager, shall make oath (or, being a Quaker, an affirmation) of the truth of such account, according to the best of his knowledge and belief; and every such copy of the account to be delivered by such person shall, to the best of his or her knowledge and belief, express the christian and surname of every person required to be entered in such account, and the place or places of his, her, or their usual residence; and if any such person shall neglect to keep such account, or to deliver such copy thereof, or shall wilfully omit any description which ought to be contained therein, he or she so offending shall forfeit and pay the sum of 50*l*."

REGULATIONS,
&c.
43 Geo. 3, c. 107.

Lodging-house keepers, stable-keepers, persons letting horses, servants, or carriages to hire, horse dealers, coachmakers, and dealers in carriages, shall keep books containing entries of persons and articles chargeable with the duties, &c.

Books may be inspected and copies shall be delivered periodically to assessors.

Penalty for neglect or omission, 50*l*.

Sect. 44. "That the commissioners for the affairs of taxes shall cause to be prepared and issued to every person applying for the same, and leaving his or her name and place of abode in writing at the office for taxes, or with any surveyor of the said duties for the district where the person making such appli-

Forms for entering such accounts may be prepared by the Tax Office, and issued to persons applying.

REGULATIONS,
&c.

43 Geo. 3, c. 161.

Or the party shall
provide proper
forms.Penalty, 50*l*.Assessor shall on
such accounts
certify duty on
carriages to com-
missioners, who
shall make as-
sessment ac-
cordingly.Gate-keepers
and farmers of
post-horse duties,
shall permit sur-
veyors to inspect
their certificates.Penalty, 100*l*.Lists of persons
licensed to let
post-horses shall
be annually
transmitted to
Tax Office.Persons trading
as horse-dealers
at divers places
shall deliver
returns at each
place, &c.
Penalty, 20*l*.

cation shall reside, proper forms for entering the accounts hereinbefore required to be made of lodgers, and of the carriages and horses standing at livery, or delivered to stable-keepers or other persons to be kept, and of the servants kept by them, and also of servants, carriages, and horses let to hire as aforesaid, and of the horses kept by horse-dealers, and of carriages built and constructed and sold by coachmakers or makers of such carriages, and of such carriages sold by auction or on commission as aforesaid; and every such account shall at the end of each year (all such entries as aforesaid being required to be first duly made) be signed by the party with his own proper name, in his or her usual manner of writing or signing the same, and returned to the assessor or assessors of the parish or place where the party shall reside, for the use of the surveyor or inspector of the districts as aforesaid, or to such surveyor or inspector as the said commissioners for the affairs of taxes shall direct, at the times hereinbefore required; and in default of such application, the party shall be obliged to provide proper forms for the said purpose, and shall cause all such entries to be duly made therein, and the same to be signed and delivered to the assessor, or surveyor, or inspector, in like manner as is before directed for the accounts issued from the office for taxes; and if any person shall neglect to deliver such accounts duly filled up and signed, within the times limited as aforesaid for making such returns, every such person shall forfeit and pay the sum of 50*l*."

Sect. 45. "That the assessor, surveyor, or inspector, to whom such account as aforesaid shall be delivered by any coachmaker or maker of carriages, or by any seller of carriages as aforesaid, shall forthwith return to the respective commissioners a certificate of the number of such carriages, of the several descriptions herein mentioned by such persons respectively constructed or sold within the period of such account, and the amount of duty chargeable on them respectively, and the said commissioners shall cause an assessment to be made on the amount contained in each certificate, and added to the assessment of the said other duties charged in the same parish or place, and shall cause the same to be inserted in the collector's duplicate, who shall demand, receive, and collect the same, at the same times and under the same warrant as the other duties are collected by or paid to such collector."

Sect. 46. "That from and after the respective days appointed for the commencement of the said duties, every gate-keeper of or upon any turnpike road, by whom any certificate shall be filed of any horses let to hire, in such manner as not to subject the hirer thereof to any stamp-office duty, payable by the laws then in force, and every collector or farmer of the said stamp-office duty, to whom such certificate shall be delivered by such gate-keeper, according to the laws then in force, shall at all seasonable times permit the surveyors or inspectors of the said duties by this act made payable, to inspect such certificates gratis, and to take copies thereof, or of such parts thereof, or extracts from the same, as the said surveyor shall think necessary for securing the payment of the said duties; and if any person shall wilfully refuse to permit such inspection, or such copy to be taken, he or she shall forfeit the sum of 100*l*."

Sect. 47. "That the name and place of abode of every person licensed to let post-horses by the commissioners for managing the duties on stamped vellum, parchment, and paper, under the laws in force, shall annually be transmitted to the office for the affairs of taxes by the said commissioners, whenever the said duties shall not be let to farm, or otherwise by the farmers and collectors of the said duties."

Sect. 48. That every person who hath or shall have divers places in Great Britain, whereto he or she shall use or exercise the trade or business of an horse-dealer, and is or may be desirous of paying the said duties at one of such places, such places not being within different limits, as set forth in the said schedule marked H, subjecting him or her to different duties, shall be obliged to deliver a declaration at each of such places, declaring therein the particular county and parish or place where he or she intends or ought to be charged for the said duty, to enable the assessor or assessors at such place to charge the same accordingly; on pain that every person offending in any of the particulars before mentioned shall be chargeable at either place, and for

neglect in making such return shall forfeit and pay the sum of 20*l*.; provided that every person exercising the said trade in London, Westminster, the liberties of the same, the parishes of St. Mary-le-bone and St. Pancras in the county of Middlesex, the weekly bills of mortality, or the borough of Southwark in the county of Surry, shall be charged and pay the duties in respect thereof in such of the said places where such business shall be carried on within the last-mentioned limits, and not elsewhere."

REGULATIONS,
&c.

48 Geo. 3, c. 161.
Horse-dealers in London, &c., shall be charged there.

Sec. 49. "That it shall be lawful for the commissioners for the affairs of taxes to cause such list or lists of names and places of abode of persons having made returns in pursuance of this act, or of persons charged to the duties by this act made payable, to be made out for the purpose of being inspected by any person or persons who shall make application to inspect the same, as to them shall seem necessary for the better execution of this act, and to authorize copies of such lists, or any part thereof, to be made out, in such manner, by the several inspectors, surveyors, and officers employed under them, and at such times as to such commissioners shall seem fit; all which lists and copies, signed by any inspector, surveyor, or other officer aforesaid, authorized by the said commissioners, shall be admitted as evidence in all courts, and before all persons acting in the execution of this act; and for which copies the fee of 1*s*., and no more, may be taken for the return of each person contained therein."

Tax Office may cause lists to be made of persons having made returns, or being charged with duties; copies whereof shall be evidence.

Sec. 50. "That it shall be lawful for the commissioners for the affairs of taxes, under the direction of the lords commissioners of his majesty's treasury, from time to time, to publish or cause to be published, in the several counties, ridings, divisions, cities, towns, parishes, and places respectively, lists containing the names of any persons charged to the duties made payable by this act, and to cause the same to be published in such manner as they shall direct; and if any person shall wilfully tear, deface, or remove any list of any such names, or any part of such lists that shall be affixed by order of such commissioners as aforesaid upon any church or chapel door, or market cross, he or she shall forfeit for every such offence the sum of 5*l*."

Lists of persons charged may be published.

Penalty for defacing such lists, &c.

Sec. 51. "That if any person rated and assessed to any of the said duties made payable by this act, shall remove out of the limits of the collectors of the said duties who shall be charged to collect the same, without first paying or discharging, or causing to be paid or discharged, all the duties charged upon him or her, and which shall then be due and payable, and without leaving within such limits sufficient goods and chattels whereon the said duties in arrear may be raised and levied, every such person shall for every such offence forfeit and pay, over and above the said duties so left unpaid as aforesaid, the sum of 20*l*."

Penalty on persons removing without payment of duties, &c. 20*l*.

Sec. 52. "That every occupier of any dwelling-house, or distinct apartment as aforesaid, who shall not return a list of persons residing with him or her as aforesaid, or shall omit any person who ought to have been included therein, and who to his or her knowledge shall have worn hair-powder, or used any armorial bearing or ensign within the period for which the return should be made, shall be liable to prosecution for the penalty hereby inflicted, and be deemed guilty thereupon, whether it shall appear that the person so omitted, or not returned, hath or hath not for himself or herself made a return at the same or any other place, or hath or hath not been prosecuted for any offence against this act, or is or is not amenable to justice therefore; and the conviction of any person for not returning or omitting any such person as aforesaid, shall not be deemed to exempt the person so omitted or not returned from paying the duty by this act imposed, or from prosecution or punishment for any offence against this act; provided that any person residing in any dwelling-house at the time of making such return, as a lodger or inmate, who shall elsewhere have his or her place of ordinary residence, shall be returned as ordinarily residing in such other place."

Penalty on housekeepers for omitting to return lodgers having worn hair-powder, &c. (see s. 32) shall be recovered, though the lodger make his return, &c.

Sec. 53. "That if any person who ought to be charged by virtue of this act shall, by changing his or her place of residence, or by any other fraud or covin, escape from the taxation, and not be charged, and the same be proved before the commissioners acting in the execution of this act, or any two or more of them, where such person dwelleth or resideth at any time within one year next

Persons fraudulently escaping taxation, may be charged treble the duties, at any time within one year.

REGULATIONS,
&c.

43 Geo. 3, c. 161.

Parents and guardians shall pay duties charged upon infants and executors, &c.

Assessments on persons deceased.

Duties charged on landlords under schedule A & B, may be levied on occupier, who may deduct the amount out of rent.

Parishes in England in which assessments are made, shall be answerable for the duties, and for payment by collectors under this act and

43 Geo. 3, c. 99.

after such charge ought to have been made, every person that shall so escape from the taxation and payment shall be charged (upon proof thereof) at treble the value of so much as he or she should or ought to have been charged at by this act, the said treble value to be charged in the assessment on such person, and on non-payment thereof to be levied on the goods, lands, and hereditaments of such persons."

Sect. 54. "That where any person or persons chargeable with the duties hereby made payable as aforesaid, shall be under the age of twenty-one years, or where any person so chargeable shall die, in every such case the parents and guardians of such infants respectively, upon default of payment by such infants, and the executors and administrators of the persons so dying, shall be and are hereby made liable to and charged with the payments which the said infants ought to have made, and the persons so dying were chargeable with; and if such parents or guardians, or such executors or administrators, shall neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like manner as against any other person or persons making default of payment of the duties hereby made payable; and all parents and guardians, making payment as aforesaid, shall be allowed all and every sum and sums paid for such infants, in his, her, or their accounts; and all executors and administrators shall be allowed to deduct all such payments out of the assets and effects of the person so dying."

Sect. 55. "That where, in the assessment of any parish, ward, or place, by virtue of the rules contained in schedules A, or B, the said duties shall be charged on the landlord or landlords, or owners of any dwelling-houses let in different apartments, stories, tenements, lodgings, lands, or landings, and not on the respective occupiers thereof, and the landlords or owners shall not reside in such parish or place, or shall not have sufficient goods or chattels in such parish or place whereon the duties so assessed shall or may be levied, and such landlords or owners shall not have paid the said duties, then and in such case it shall be lawful for the collector or collectors to demand the same of and from the tenant or tenants, occupier or occupiers thereof, or any of them, and on non-payment thereof shall and may levy the said duties on the goods and chattels of such tenants and occupiers respectively, by distress and sale as aforesaid, as if the said duties were charged on such tenants and occupiers, (a) and such tenants and occupiers are hereby required and authorized to pay such sum or sums of money as shall be so assessed, and to deduct out of the rent of such apartments, stories, tenements, lodgings, lands, or landings, such payments as the landlords and owners have been charged with; and the said landlords and owners, both mediate and immediate, according to their respective interests, are hereby required to allow such payments upon receipt of the residue of the rent, and every such tenant and occupier shall be acquitted and discharged of so much money as the said assessment or assessments shall amount unto, as if the same had actually been paid unto such landlords or owners."

Sect. 56. "That in England, Wales, or Berwick-upon-Tweed, the ward, parish, or place in which any assessment shall be made of the said duties shall be answerable for the amount of the duties which shall be charged in such ward, parish, or place, and for the said duties being duly demanded of the respective persons charged therewith, within ten days after the same are payable by virtue of this act by the collector or collectors of such ward, parish, or place; and also for such collector or collectors, his, her, or their executors or administrators, duly paying the sums received by such collector or collectors, to the receiver-general of the said duties, according to this and the said first-recited act; and every arrear of the said duties arising from the default as aforesaid, or by the failure of any collector for which any ward, parish, or place, as aforesaid, shall be answerable, shall be re-assessed within or upon

(a) See observations in *The Earl of Shaftesbury*, 1 B. & C. 669; *Juson v. Dixon*, 1 M. & S. 601; *ante*, p. 710; *Wightw.* 1; 46 Geo. III. c. 65, ss. 189, as to re-assessment, see 20 Geo. II. c. 3, s. 34; 25 Geo. III. c. 47, s. 25; 3 *Inst.* 920; 1 *New R.* 287; 7 *Price*, 594; *ante*, p. 717.

such ward, parish, or place, as soon after such default shall be discovered as conveniently can be done, and shall respectively be charged on the amount of the assessment which shall be made for the same duties in the year commencing from the fifth day of April preceeding the time of making such re-assessment, by duly apportioning the amount of such arrear amongst the several persons assessed in that year to the same duties respectively on which such arrear shall have accrued, according to each person's assessment thereof, as nearly as the case will admit, and by the like rules, methods, and directions by which the original assessment was made of the same duties, to be raised and levied in such manner as any assessment may be by this act raised and levied."

REGULATIONS,
&c.
43 Geo. 3, c. 101.

Arrears shall be re-assessed. (u)

Sec. 52. "That in case the duties assessed in Scotland shall not be paid to the receiver-general by reason of any failure of the collector, either in the performance of his duty, or in not paying over the monies received by him according to the directions of this and the said last-recited act, and any deficiency shall remain after diligence used against such collector, or his surety or sureties, or in case of death, against his executors or administrators, then and in such case the commissioners acting in the execution of this act for the shire, stewartry, city, or borough in Scotland, where such failure has happened, shall, and they are hereby authorized and required to cause the deficient sum to be re-assessed, as soon after such deficient sum has been ascertained as can be done, upon those persons subjected to the payment of the like duties in the year when the re-assessment shall be made, by duly apportioning the amount of such deficiency amongst them according to each person's assessment, as near as the case will admit, and by like rules and modes by which the original assessments were made of the duties assessed in that year, which sum so re-assessed shall be levied and collected in such manner as the said duties may be raised and levied in Scotland."

Deficiencies of duties in Scotland arising from failure or default of collectors under this act and 43 Geo. 3, c. 150, shall be re-assessed.

Sec. 58. "That no person or persons shall be charged or assessed to the poor's rate or contribution for the poor, or to the highway duty, or commutation of statute labour, for or in respect of any duties made payable by this act, but that such owners and occupiers shall continue to be rateable to the said rates, contributions, and duties, in such manner as they might have been rated and assessed to the same respectively, before the passing of this act."

Persons shall not be assessed to poor's rate, &c., for duties under this act.

Sec. 59. "That the payment of any of the duties made payable by this act, by any person or persons, in any parish or place, shall not entitle the person or persons so paying such duties to a settlement in such parish or place."

Payment of duties shall not confer a settlement.

Sec. 60. "That the several assessors, inspectors, and surveyors, so as aforesaid appointed or to be appointed, and every of them, shall have full power, at seasonable times, taking to his or their assistance, in all cases when the same shall be necessary, a constable, headborough, tithingman, or other officer of the respective parishes or places within that part of Great Britain aforesaid, who are hereby required to assist such officers accordingly, to view and examine each dwelling-house, in order to ascertain the number of windows or lights therein, and the dimensions thereof, and the annual rent at which the same dwelling-house ought to be charged; and for so doing shall have liberty to pass through any house or houses, and to go into any court, yard, backside, or premises thereunto belonging, and externally to view and inspect the windows or lights in any such house or houses, and the premises occupied therewith, and to measure such windows or lights externally, that cannot be conveniently seen, numbered, or measured, without passing through such house or houses; and shall also have liberty to make like view, examination, and inspection, twice in the year during the continuance of this act; and if any dispute shall arise touching the dimensions of any window or light, the proof thereof shall lie upon the occupier or occupiers, who shall cause the same to be duly admeasured at his and their proper costs, and verified before two or more of the said commissioners, on the oath or affirmation of the person admeasuring the same."

Assessors, inspectors, and surveyors, allowed to examine houses twice a year, to ascertain the rent and number and dimensions of windows.

Constables shall assist when required.

Proof of the dimensions of windows shall lie on occupier.

REGULATIONS,
&c.

43 Geo. 3, c. 161.
Distinct tenements may be examined in like manner.

Assessors shall bring in certificates of assessments for all the duties, with the names of persons claiming exemptions, &c., according to the regulations of recited act,
43 Geo. 3, c. 99
(and see c. 150).

Inspectors and surveyors may inspect, examine, and copy returns and assessments, and may amend the latter before allowed by commissioners,

and after allowance may certify omissions, &c., by way of surcharge;

which surcharge (on oath being made of notice to the party) commissioners shall allow.

Sect. 61. "That where any dwelling-house shall be divided into distinct tenements, requiring each tenement to be separately assessed, it shall be lawful for the said assessors, surveyors, and inspectors, and every of them, to take an account of the number of windows in each distinct tenement, and for that purpose shall have liberty to enter into the same, and to view, number, and measure the windows therein, as well internally as externally."

Sect. 62. "That the respective assessors acting in the execution of this act shall bring in their certificates of assessments, in writing under their hands, within the time limited by the said recited act of the present session of Parliament, to be verified as therein directed, of every dwelling-house, inhabited or not inhabited, within the limits of those places for which they are to act, and of the number of windows or lights in each house, and the full and just yearly rent which every such dwelling-house, with the offices and premises hereby charged, is really worth, estimated according to this act, together with the names and surnames of the several occupiers or inhabitants of each dwelling-house, and also the greatest number of male servants, or other male persons herein described, carriages, horses, mules, and dogs, which shall have been retained, kept, or used, within the then preceding year, for which the persons retaining, keeping, or using the same, ought to be assessed to any of the duties made payable by this act for the current year, within the limits of those places for which they act, and the names and surnames of the several persons who shall have retained, kept, or used the same; and also the names and surnames of all persons within such limits liable to the duties, in respect of their trade or business of a horse-dealer, or of their trade or business of a coachmaker, or maker of carriages, or seller of carriages by auction, or on commission, or in respect of hair-powder, or any armorial bearings or ensigns, worn or used by them, and of the several sums of money they respectively ought to pay by virtue of this act, in each case respectively, without concealment or favour; and also the names and surnames of those who have claimed exemptions, from the said duties, or any of them, and the causes of such exemption under the penalty contained in the said recited act, observing therein, as to the time of bringing in such certificates, the regulations of the said recited act."

Sect. 63. "That the surveyors or inspectors appointed or to be appointed, as herein mentioned, shall be and they are hereby empowered to inspect and examine all and every the returns of lists or declarations made by any person or persons chargeable to the said duties, or any of them, according to the directions of this act, and also all and every the assessments of the said duties, or any of them, made for any parish or place, as well before as after the commissioners shall have signed and allowed the said assessments, and before such allowance, to correct and amend such assessments, if he or they shall see fit; and every person in whose custody any such lists shall be, shall and is hereby required, upon the request of any such surveyor or inspector, as aforesaid, to deliver the same into his custody for the purposes of this act, taking his receipt for the same; and every person in whose custody any such assessment shall be, shall and is hereby required, upon the request of such surveyor or inspector, as aforesaid, to produce the same; and such surveyor or inspector is hereby authorized to take charge of the same, until he shall have taken such copies of or extracts from the same, as may be necessary for his and their better information; and if any such surveyor or inspector shall, after any such list or lists, and assessment or assessments, shall be so respectively made out, signed, and allowed, as aforesaid, find or discover, upon his survey or examination, or otherwise, that any person who ought to be charged with the said duties, or any of them, shall have been omitted to be charged therewith, or shall have been under-rated, or that any person liable to the said duties, or any of them, in respect of which such lists or declarations, as aforesaid, ought to have been delivered, hath not made any return, as by this act is required, or hath omitted any person, or any description, or any article, matter, or thing, which ought to have been returned, so that he or she shall not have been charged to the amount which ought to be paid by him or her, or that any exemption shall have been claimed which is not allowed by this act; then, and in every such case, the said surveyor or inspector shall certify the same in

writing under his hand, together with an account of every default and omission, with the name or description of the person or thing not returned or omitted, to the best of his knowledge and belief, and the full amount of the duty which ought to be paid by way of surcharge to any two or more of the said commissioners for putting in execution this act, in order to have such default, omission, or under-rate, rectified in the said assessment; and such commissioners are, upon the delivery of any such certificate, and upon oath being first made that such notice as hereinafter directed was given to or left in writing at the dwelling-house, or other place of abode, of the person so surcharged, required to sign and allow the said surcharges, and to cause the said assessments to be rectified, and the said duties to be levied accordingly; and the said inspectors and surveyors shall give, or cause to be given, to every person so surcharged, or leave, or cause to be left, at his or her last or usual place of abode in the district where such surcharge was made, notice in writing of such surcharge, and of the amount for which he or she shall have been charged by virtue of such certificate; which surcharges the said inspectors and surveyors are hereby empowered to make from time to time, and at such times as is directed by the said recited acts respectively of the present session of Parliament, and such surcharges shall be made in the full amount of the duty which ought to be charged by virtue of such certificate, in respect of the duties contained in schedules (A.) and (B.), and in double the amount of the duty which ought to be charged by virtue of such certificate, in respect of all or any of the duties contained in the other schedules to this act annexed."

Sect. 64. "That no assessment or surcharge made or to be made by any assessor or assessors, surveyor or surveyors, inspector or inspectors, by virtue of this act, shall be impeached or affected by reason of any mistake or variance in the christian or surname, or either of them, of any person liable to any of the duties made payable by this act, or of any servant or other male person herein described, or in the description of their employments, nor by reason of any mistake in the description of any carriage, horse, mule, or dog, as required by this act, or the amount of the duty surcharged, whether such mistake or variance shall appear in the notice and certificate to be delivered or made in such case, or in either of them; but that all such assessments and surcharges shall be valid and effectual to all intents and purposes, notwithstanding any such mistake or variance, provided the notice of surcharge be delivered to or left at the place of abode of the person intended to be so surcharged, according to the directions of this act, and the person or persons intended to be described shall be liable to the said duties, or shall be a servant or servants, of or otherwise employed by the person or persons so surcharged, or the carriage, horse, mule, or dog, intended to be described, shall belong to, or the duty intended to be described, shall be chargeable on such person or persons."

Sect. 65. "That it shall be lawful for any person to whom such notice of surcharge shall be given, as aforesaid, on occasion of his or her having neglected to make any return, as required by this act, at any time previous to the time appointed for hearing appeals next after the delivery of such notice, to make out and deliver to the surveyor or inspector, who shall have delivered the notice of surcharge, a true, perfect, and complete list or lists, or declaration or declarations, in the forms directed by this act, and as the case may require, so that he or she may, from such last-mentioned lists or declarations so delivered, be charged to the said duties the full sum at which he or she ought to be charged by virtue of this act; provided that, to every such list or declaration, there shall be annexed an affidavit in writing, to the effect hereinafter mentioned; and, if the said surveyor or inspector shall be satisfied with such list or declaration and affidavit, then he shall certify such return and affidavit to two or more of the said commissioners, with the amount of the duty to be charged, who shall thereupon cause the assessment to be made according to such certificate, and the same rate of duty as set forth in the schedules to this act annexed to be charged on the person making such return, without further trouble or delay; but if, upon examination of such list or declaration, or such affidavit, the said surveyor or inspector shall see just cause to object thereto, he shall thereupon certify such return and affidavit, together with the cause of

REGULATIONS,
&c.

43 Geo. 3, c. 161.

Notice to parties.

Surcharges shall be made as under 43 Geo. 3, c. 90 & 156, in the full amount of duties in schedules A, B, and in double the other duties. (See s. 71.)

Assessments or surcharges shall not be impeached on account of mistakes in the names or descriptions.

Surcharge may be avoided by making a return on oath (see s. 56), to satisfaction of surveyor, to be signified by his certificate;

or on objection, of surveyor, assessment shall be made in double duty, subject to appeal.

REGULATIONS,
&c.

43 Geo. 3, c. 161

Form of affidavit
to be annexed to
return (see s. 65.)

On omissions in
returns, sur-
charge may be
avoided by new
return on oath,
(and proceedings
as under, s. 65.)

Form of affidavit
in aid of defec-
tive returns.

Appeals shall be
heard and deter-
mined as under
43 Geo. 3, c. 99
and 150 (and see
post, s. 70.)

Persons aggrieved
by certificate
of assessors may
appeal.

Lists on oath re-
quired in all
cases of appeal.

his objection, to two or more of the said commissioners, who shall thereupon cause the assessment to be made according to such last-mentioned certificate, in double the amount of the duty at which such person shall be surcharged; and from which charge no abatement shall be made on any pretence, unless on appeal, as hereinafter is directed; of which certificate, notice shall be given by the surveyor to the person to be charged thereby."

Sect. 66. "That every such affidavit shall allege and declare in substance or to the effect as follows (that is to say): that the deponent was not at his or her dwelling-house, or other place of abode, at the time appointed for the fixing or delivery of general or other notice, for making a return as required by this act, nor between that day and the time limited for making such return to the assessor, and that he or she had not any such notice; or, that he or she was disabled by sickness from making such return; or, that the non-delivery of such return was occasioned by the following unavoidable mistake or accident, without any intention to defraud the revenue: *videlicet* [here set forth the cause of such default]; and that the return annexed to this affidavit is a full, perfect, and complete return of all matters and things required of the said deponent by this act, to the best of his or her judgment; which affidavit may be taken before any one or more of the commissioners acting for the place where the surcharge shall be made, or where the party surcharged shall reside, and shall be signed by the party making the same."

Sect. 67. "That it shall be lawful for any person to whom such notice of surcharge shall be given, on occasion of his or her having omitted in the return made any person or description, or any article, matter, or thing, which ought to have been contained therein, or of having claimed any exemption not allowed by this act, to amend such return, by delivering to the surveyor or inspector, as aforesaid, a new return, according to the directions before given, to which an affidavit shall be annexed, to the effect hereinafter mentioned; and the said surveyor or inspector shall be at liberty to certify his satisfaction therewith, or his objection thereto, in the manner hereinbefore directed, according to which certificate, the party surcharged shall be assessed in the single duty to the full amount at which he or she shall be chargeable, or in the double duty on the amount of the duty so surcharged, as the case may require, subject to the like power of appeal from such charge in the double duty, and to the like proceedings, in all other respects, as are before given and directed."

Sect. 68. "That every such last-mentioned affidavit shall allege and declare the grounds and cause of each omission, or claim of exemption, as well to matter of law as fact, whether the deponent shall persist in such omission or claim, or not, and also that the return annexed to this affidavit is a full, perfect, and complete return of all matters and things required of the said deponent by this act, to the best of his or her judgment and belief, and that such omission or claim was not made with intention to defraud the revenue, which said last-mentioned affidavit shall be made and signed in the manner before directed."

Sect. 69. "That an appeal may be made from any assessment or surcharge as aforesaid, and heard and determined under the regulations of the said recited acts respectively, and that such appeal may be made in the like cases as are mentioned in the said recited acts respectively, and also in the case hereinafter mentioned."

Sect. 70. "That if any person or persons shall think himself, herself, or themselves, respectively overcharged or over-rated by any certificate of any inspector or surveyor as aforesaid, or by any assessment to be made by virtue or in pursuance of such certificate, it shall be lawful for him, her, or them respectively, to appeal to the said commissioners in such manner as they are authorized to appeal from any original assessment or surcharge by the regulations of the said recited acts respectively; and upon the hearing of any such appeal, or the appeal against any such original assessment or surcharge, the appellant shall, in all cases, where a list or declaration shall or ought to have been delivered by the said appellant to the assessor, produce before the said commissioners a true, perfect, and complete list or lists, and declaration or declara-

tions, as the case may require, and verify the same on his or her oath or affirmation." **REGULATIONS, &c.**

Sect. 71. "That upon every surcharge confirmed by the said commissioners on appeal, according to the regulations of the said recited acts respectively, and also upon every surcharge allowed by the said commissioners upon the certificate of the surveyor or inspector, as directed by this act (except in cases where sufficient returns, upon affidavit, have been supplied as aforesaid), the assessments shall be made in double the rates of duty prescribed in the schedules annexed to this act, on the amount of the duty so surcharged, which sum shall be added to the assessment, and inserted in the duplicates of the collectors, and collected and levied therewith, and paid to the receiver-general: provided always, that upon every such appeal, if the said commissioners shall be of opinion that there was any just cause or controversy on the part of the appellant on the subject matter of appeal, and that the alleged default, neglect, omission, or claim, was not wilfully made, and with intention to defraud the revenue, it shall be lawful for the said commissioners who shall have determined the said appeal, although they shall have confirmed or allowed the surcharge, at the same time to remit and strike off any part of the double duty, not exceeding one moiety of the charge above the rates of duty prescribed by the said schedules; and the assessor, surveyor, or inspector, so making such surcharge, shall be, and is hereby entitled to, and shall have and receive for his own use, from the receiver-general to whom the duties shall be paid, the overplus of the sum so charged above the said rates of duty, as prescribed in the said schedules, which overplus the commissioners for executing this act, who shall have confirmed such surcharge, or any two or more of them, shall, at the same meeting, certify, under their hands, to the commissioners for the affairs of taxes, and the certificate of the said commissioners for the affairs of taxes shall be a warrant to the said receiver-general to pay the same."

43 Geo. 3. c. 161. Assessment shall be made in double duty where surcharge is confirmed on appeal, &c.;

but commissioners may remit, not exceeding one moiety.

Inspector, &c. shall receive overplus above the rates of duty.

Sect. 72. "That if any inspector or surveyor shall wilfully make any false and vexatious surcharge, or wilfully deliver, or cause to be delivered to the commissioners for executing this act any false and vexatious certificate of charge, every such inspector or surveyor shall forfeit to the party aggrieved any sum not exceeding 50*l.*, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, for offences committed in England, and in the court of great sessions for offences committed in Wales, and in the courts of session or Exchequer for offences committed in Scotland, with full costs of suit: provided always, that nothing hereinbefore contained, nor any suit by the party aggrieved, in pursuance of this act, shall be construed to affect, impeach, or defeat any action or information brought or to be brought against any surveyor or inspector, in pursuance of the said recited acts respectively, for any corrupt, vexatious, or illegal practices in the execution of his office; and it shall be lawful for the judge before whom such inspector or surveyor shall have been convicted of such offence, by indorsement on the postea, or for the court before whom such person shall be convicted, to mitigate the penalty at his or their discretion."

Penalty on inspector or surveyor making false or vexatious surcharge, &c. 50*l.*

Not to defeat any action against surveyor under 43 Geo. 3. c. 90, s. 23, or c. 150, s. 19.

Court may mitigate the penalty.

Sect. 73. "That if any such assessor or assessors, surveyor or surveyors, inspector or inspectors, or the persons appealing either against the original assessment or surcharge, or against the certificate of the inspector or surveyor as aforesaid, or against the assessment to be made thereupon, shall apprehend the determination made by the said commissioners to be contrary to the true intent and meaning of this act, and shall then declare himself or herself dissatisfied with such determination, it shall be lawful to and for such assessor or assessors, surveyor or surveyors, inspector or inspectors, or appellant respectively, to require the said commissioners to state specially, and to sign the case upon which the question arose, together with the determination thereupon, which

Assessors, &c. or appellants, may demand a case for the opinion of a judge. (a)

(a) The 45 Geo. III. c. 71, s. 3, provides, that if the opinion of a judge shall be against the assessment, the tax-office may order receiver-general to repay money overpaid on assessment. By the

4 Geo. IV. c. 11, copies of cases determined by the judges are to be annually laid before Parliament. See the act, *post*, 787.

REGULATIONS,
&c.

43 Geo. 3, c. 161.

If surcharge confirmed, assessment shall be in the double duty, &c. as on appeal.

Instalments due previous to Judge's opinion shall be levied.

40s. costs on appellant having demanded a case, if surcharge confirmed.

When cases obtained by inspectors, &c. shall not be returned within the time for delivering duplicates to receivers-general, &c. (See 43 Geo. 3, c. 99, s. 40, c. 150, s. 41.)

Commissioners shall make separate assessments and duplicates.

Commissioners may grant relief in cases of double assessment.

case the said commissioners, or the major part of them then present, are hereby required to state, and sign accordingly, and to cause the same to be delivered to the party making such request as aforesaid, to be by him or her transmitted, if in England, Wales, or Berwick-upon-Tweed, to one of the justices of the Court of King's Bench or Common Pleas, or to one of the barons of the Court of Exchequer for the time being at Westminster, and if in Scotland, to one of the lords of the court of session, or the barons of the Court of Exchequer in Scotland; and every such judge is hereby required, with all convenient speed, to return an answer to such case so transmitted, with his opinion thereon subscribed thereto, according to which opinion, so certified, the assessment which shall have been the cause of such appeal shall be altered or confirmed: provided always, that where the opinion of such judge shall be in support of any surcharge, the assessment thereupon shall be made in the double duty, or shall be mitigated to such sum as shall have been determined by the commissioners at the time of the appeal: provided also, that notwithstanding any such case so transmitted to any of the said judges, the instalment on the assessment as determined and allowed by the said commissioners, which shall become due precedent to the opinion being certified by any such judge upon such case, shall be collected and levied as if no such case had been transmitted."

Sect. 74. "That if, according to the opinion of any of the said judges to whom any case shall, at the request of the appellant or appellants, be transmitted in pursuance of any of the directions contained in this act, the charge or surcharge upon which the question contained in such case shall have arisen shall be confirmed and established, the person or persons so charged or surcharged, shall, for the costs and charges attending the same, pay to the use of his majesty, his heirs and successors, the sum of 40s., in addition to the assessment or surcharge so confirmed and established as aforesaid, and which costs shall be added to such assessment, and levied and collected therewith, and as part of the duties so assessed."

Sect. 75. "That whenever any case or cases to be transmitted to any of the said judges for his or their opinion thereon, in the manner directed by this act, shall have been obtained by any inspector or inspectors, surveyor or surveyors, or assessor or assessors, by reason of any surcharge or surcharges, or any certificate not being allowed by the commissioners for executing this act, and the same shall not be returned within the time hereby limited for delivering the duplicates to the receivers-general, and the office of the king's remembrancer, whereby the passing of the accounts of the receivers-general may be impeded, it shall be lawful for the commissioners, and they are hereby required, to cause to be made out the duplicates of the several assessments required to be delivered to the respective receivers-general, and into the office of the king's remembrancer, exclusive of the sums so depending, to the end that there may be no delay in paying into the receipt of the Exchequer the sums assessed and fully charged; and that, upon the return of such opinion, whenever the same shall happen, the said commissioners shall cause separate assessments to be made out, including therein the names of the party or parties in the case or cases so transmitted, and the amount of the sums wherewith the party or parties ought to be charged, according to such opinions so returned; and the sums so assessed to be levied in like form and manner as any assessments may be levied, and to be paid to the respective receivers-general; and shall also cause true supplemental duplicates of all such separate assessments to be made out as soon as conveniently may be done, and delivered into the respective receivers-general, and also transmitted into the office of the king's remembrancer, for which supplemental duplicates the proper officers shall give acquittances *gratis*, so as every of them may be duly charged to answer the whole of their respective collections and receipts."

Sect. 76. "And, to the end that no person may pay the same duties for the same articles in more parishes or districts than one for the same year; be it further enacted, that if any person, having been assessed under this act in one parish or district to the duties made payable by this act, or any of them, shall be again assessed in another parish or district for the same cause and on the same account, in such case the commissioners for this act within such latter parish

or district, or the majority of the said commissioners present, on any application for the purpose, may and are hereby required to alter any assessment of such person so assessed twice, on proof given before them that such person hath before been assessed for the same cause, and on the same account, in another place, and in what place specifically, and hath paid or is liable to pay the duties for the same upon such assessment, which proof shall be made by the oath or affirmation of the party, or some credible witness, that the several assessments are for the same cause and on the same account, and by the production of either a copy or certificate of the first assessment, signed by two or more commissioners of the district for which such first assessment shall have been made, to be verified on oath or affirmation as aforesaid, which copy or certificate the clerk of the said commissioners shall deliver gratis to the party requiring the same; or, in default of such copy or certificate, then the proof thereof shall be made by other evidence on oath or affirmation as aforesaid, to the satisfaction of the commissioners present, or the majority of them; and if any person shall, by any fraudulent contrivance whatever, procure any assessment to be altered, with intent to defraud his majesty, his heirs or successors, of the said duties, or any part thereof, every such person shall for every such offence forfeit the sum of 50*l*."

REGULATIONS,
&c.
48 Geo. 3, c. 161.

Penalty on altering assessment,
50*l*.

Sect. 77. "That no letters patent granted by his majesty, or any of his royal progenitors, or to be granted by his majesty, to any person or persons, cities, boroughs, or towns corporate, within this realm, of any manner of liberties, privileges, or exemptions from subsidies, tolls, taxes, assessments, or aids, shall be construed or taken to exempt any person or persons, city, borough, or town corporate, or any of the inhabitants of the same, from the burden and charges of any of the said duties; and all *non obstantes* in such letters patent made or to be made in bar of this act, are hereby declared to be void and of none effect; any such letters patent, grants, or charters, or any clause of *non obstante*, or other matter or thing therein contained, or any law or statute to the contrary notwithstanding."

Sect. 78. "That out of the monies from time to time arisen or to arise of or from the said duties made payable by this act, it shall be lawful to and for the said commissioners of the Treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, to settle and appoint such salaries and allowances for the service, pains, and labour of the surveyors, inspectors, and other officers to be employed in the execution of this act, and otherwise in relation thereto, and also to discharge such incident charges and expenses as shall necessarily attend the execution of this act, as the said commissioners of the Treasury, or any three or more of them, or the high treasurer for the time being, shall think fit and reasonable in that behalf."

Treasury may
appoint salaries
to officers, and
pay incidental
expenses.

Sect. 79. "That every receiver-general shall have an allowance of two-pence in the pound for all the monies which shall be by him paid into the receipt of the Exchequer; and that every collector shall have three-pence in the pound, for what money he shall pay to the receiver-general, his deputy or deputies, within the time limited by the said recited act: and that for the careful writing and transcribing the said assessments, warrants, estreats, and duplicates, in due time, and for the due, speedy, and effectually executing all matters and things directed to be performed under the said commissioners, the clerk of the respective commissioners, who shall perform the same within the respective times limited by this act, shall, by warrant under the hands of two or more of the commissioners, have and receive from the respective receivers-general, their deputy or deputies, three-halfpence in the pound, of all such monies as he or they shall have received by virtue of such warrants or certificates, who is and are hereby appointed and allowed to pay the same accordingly, provided this act be carried into execution in due time, and in an effectual manner, for the district in which he shall be appointed the clerk, and all warrants or estreats be made out, and the duplicates delivered to the said receiver-general, and into the

Allowances to the
receiver-general,
collectors, and
clerks to commis-
sions. (a)

REGULATIONS,
&c.43 Geo. 3, c. 161.
* See s. 75.Clerk shall not
take any fee, &c.Penalties recover-
able as under in
England, 43 Geo.
3, c. 90, & c. 150,
in Scotland.Time of payment
of duties by col-
lectors to the
receivers-general,
and by them into
Exchequer.Duties shall be
carried to British
consolidated fund.Accounts shall be
kept of monies
arising from the
duties contained
in each schedule.

* See s. 1.

Accounts of dif-
ferent parts of the
duties shall be
prepared at the
Tax Office, and an-
nually laid before
Parliament, ac-
cording to 43 Geo.
3, c. 70.

office of king's remembrancer as aforesaid, within the times limited by this act,* and not otherwise; and no other person, except the person appointed to be his assistant as aforesaid, shall, under any pretence whatever, be entitled to, or receive, or take any part of the reward hereby given to such clerk; the amount whereof shall be apportioned and settled by the respective commissioners; nor shall any such clerk or assistant, under any pretence whatever, demand, take, or receive any fee, gratuity, or perquisite, for any matter or thing to be done by him or them, by virtue and under the authority of this act, from any person or persons other than the receiver-general, his deputy or deputies, in manner aforesaid."

Sect. 80. "That all pecuniary penalties and forfeitures imposed by this act shall and may be sued for, recovered, and applied in such manner and form as is directed by the said recited acts respectively in regard to the pecuniary penalties and forfeitures thereby imposed."

Sect. 81. "That the collectors shall pay over the whole of the sums by them received by virtue of this act, in manner and upon the days of payment following: that is to say, in England, Wales, and Berwick-upon-Tweed, the same shall be paid quarterly unto the respective receivers-general, or their respective deputies, within twenty days after the respective days appointed for the payment thereof, at such places as shall be appointed by such receivers-general, and the said receivers-general shall cause the same to be paid into the receipt or his majesty's Exchequer at Westminster, before the end of the quarter in which the same shall be received, according to the provisions of the said first-recited act; and in Scotland the same shall be paid half-yearly to the receiver-general at Edinburgh, *videlicet*, on or before the 25th day of December, for the first half-year's instalment of the said duties, and on or before the 24th day of June for the last half-year's instalment of the said duties in every year; and the said receiver-general shall, within forty days after the said respective days, remit and pay the same into the said receipt, according to the provisions of the said last-recited act."

Sect. 82. "That all monies arising from the said duties (the necessary charges of raising and accounting for the same excepted) shall from time to time be paid into the receipt of his majesty's Exchequer at Westminster, distinctly and apart from all other branches of the public revenues; and that there shall be provided and kept in the office of the auditor of the said receipt, a book or books, in which all the monies arising from the said duties, and paid into the said receipt as aforesaid, shall be entered separate and apart from all other monies paid and payable to his majesty, his heirs and successors, upon any account whatever; but nevertheless without entering the different proportions thereof, in separate accounts, as directed by any act or acts hereby repealed; and the said monies so paid into the said receipt, shall be carried to and made part of the consolidated fund of Great Britain."

Sect. 83. "And whereas, by divers of the said acts hereby repealed, it is provided, that the new or additional duties thereby granted, should, during the space of ten years, then next ensuing, be kept in the office of the auditor of the said receipt of Exchequer, in a book or books, together with such other duties as were respectively granted for the purpose of making permanent additions to the public revenue, and of defraying any charges occasioned by certain loans made and stocks erected by authority of Parliament, and separate and apart from other monies paid or payable to his majesty, his heirs or successors, upon any account whatever; and whereas it is expedient that the whole of the duties contained in each schedule should be entered in one account; be it therefore enacted, that from and after the respective period appointed for the commencement of this act, in the respective parts of Great Britain herein mentioned,* the monies arising from the duties contained in the same schedule shall be paid into the said receipt in one sum, and the account thereof shall be there kept in one sum; and the monies arising from each separate schedule, marked A, B, C, D, E, F, G, H, I, and K, shall be paid into the said receipt, separate and distinct from each other; and separate accounts shall be there kept of the same: provided always, that the commissioners of his majesty's treasury, now or for the time being, or any three or more of them, or the lord high treasurer for the

time being, shall from the respective periods appointed for the commencement of this act, during the remainder of the ten years mentioned in the acts hereby repealed, in respect of the new or additional duties thereby respectively granted, and for the period of ten years from the commencement of this act, in respect of the new duties by this act granted, cause separate and distinct accounts of the different parts of the said duties and of the amount thereof, to be prepared at the office for taxes, to be annually laid before Parliament, pursuant to the provisions contained in an act passed in the forty-second year of the reign of his present majesty, intituled, 'An Act for directing certain Public Accounts to be laid annually before Parliament, and for discontinuing certain other Forms of Account now in use;' provided always, that a separate account shall be kept and made out of the said new duties; and that to such account there shall be added, in respect of the new duties on windows or lights granted by this act, by the manner of charging the same according to their respective dimensions, such further sums as shall appear to be the increase occasioned thereby, which increase shall be always taken to be the excess over and above the several sums of 327,900*l.*, 515,000*l.*, 36,000*l.*, 36,000*l.*, 51,500*l.*, and 441,496*l.* directed by the several acts hereby repealed to be entered in separate accounts in the books of the said receipt, and of the further sum of 490,000*l.*, being the computed annual amount of the rates and duties granted by the said act, passed in the forty-third year* of the reign of his present majesty, amounting together to the sum of 100,897,896*l.*; and that the excess of the said rates and duties above the said sums shall be deemed a permanent increase to the public revenue of Great Britain, for the purpose of defraying any increased charge occasioned by any loan made or stock created by authority of any act of Parliament passed in the present session of Parliament."

Sec. 84. "That from and after the 5th day of April, 1804, the several rates and duties contained in any of the acts hereinafter mentioned, in lieu whereof other duties are hereby substituted, and also such parts of the several provisions of the said acts which relate to the duties made payable by this act, or any of them, shall be and are hereby repealed; that is to say,

"20 Geo. II. c. 3, for duties on houses, windows, and lights—20 Geo. II. c. 42, and 21 Geo. II. c. 10, for amending said act—20 Geo. II. c. 3, 26 Geo. II. c. 17 (misrecited as an act of his present majesty), for windows in Scotland—2 Geo. III. c. 8, duties on windows—6 Geo. III. c. 38, repealing former duties on houses, windows, and lights, and granting others—17 Geo. III. c. 39, duty on servants—18 Geo. III. c. 26, duties on inhabited houses—19 Geo. III. c. 59, repealing duties under 18 Geo. III., and granting others, and amending 17 Geo. III. c. 39, as to servants—21 Geo. III. c. 31, for collecting duty on servants—24 Geo. III. st. 2, c. 31, duty on horses—24 Geo. III. st. 2, c. 38, duties on inhabited houses—25 Geo. III. c. 43, repealing duties on servants, and granting others—25 Geo. III. c. 47, transferring duties from excise and stamps to Tax Office—26 Geo. III. c. 79, for explaining 25 Geo. III. c. 47—29 Geo. III. c. 49, horses and carriages—32 Geo. III. c. 2, inhabited houses, repealing 6 Geo. III. c. 38, in part—36 Geo. III. c. 15, new duty on horses—36 Geo. III. c. 16, additional duty on horses—36 Geo. III. c. 117, lights in dairies—36 Geo. III. c. 124, duties on dogs—37 Geo. III. c. 106, additional duty on horses—37 Geo. III. c. 107, additional duties on servants—37 Geo. III. c. 134, further additional duty on horses—38 Geo. III. c. 40, repealing duties on houses, windows, lights, and inhabited houses, and granting others in lieu—38 Geo. III. c. 41, repealing former duties on servants, carriages, horses, mules, and dogs, and granting others—38 Geo. III. c. 80, to amend said c. 41—38 Geo. III. c. 93, taxed carts—41 Geo. III. (U. K.) c. 9, horses, additional duty and exemption—41 Geo. III. (U. K.) c. 40, exemption on horses of clergymen—41 Geo. III. (U. K.) c. 62, exempting Irish members, &c. from duties—41 Geo. III. (U. K.) c. 69, duty on hair-powder and armorial bearings transferred to Tax Office—36 Geo. III. c. 17, duty on horse-dealers—41 Geo. III. (U. K.) c. 71, duty on horse-dealers transferred to Tax Office—42 Geo. III. c. 34, consolidated duties on windows, lights, and inhabited houses—42 Geo. III. c. 37, consolidated duties on servants, carriages,

REGULATIONS,
&c.
43 Geo. 3, c. 161.

Apportionment of
duties.

* Query 1
See 43 Geo. 3, c.
34, s. 40.

Repeal of former
duties, and of such
parts of acts as
relate to those
duties.

REGULATIONS, horses, mules, and dogs—42 Geo. III. c. 100, explaining acts as to horses, servants, and carriages."

43 Geo. 3, c. 161. Except as to arrears, and penalties, and such provisions of the said acts as relate to other things.

"And that all the acts heretofore repealed by any of the said acts before mentioned to be repealed, shall be deemed to be, and construed also to be and continued repealed, according to the respective provisions thereof; save and except in all cases relating to the recovering, collecting, paying, or accounting for any arrears of the several duties hereby repealed, which may become payable on or before the said fifth day of April, 1804, and may after that time remain unpaid, and to the recovering any penalty or forfeiture which shall have been then incurred under and by virtue of the said several acts, or any of them, and the provisions of the said acts relating thereto; save also and except such parts of any of the said acts which relate to any matters or things other than the said duties or the methods of assessing, levying, and collecting the same."

Sect. 85. "Commissioners and other officers under this act empowered to levy arrears of duties due under any former acts" [This is expired.]

Limitation of actions, six months.

Sect. 86. "That if any action or suit shall be brought against any person or persons for anything done in pursuance of this act, or any act, for granting duties to be assessed under the regulations of this act, such action or suit shall be commenced within six calendar months next after the fact committed, and not afterwards; and shall be laid in the county or place where the cause of complaint did arise, and not elsewhere; and no writ or process shall be sued out for the commencement of such action or suit, until one calendar month next after notice in writing shall have been delivered to or left at the usual place of abode of such person or persons, by the attorney or agent for the intended plaintiff or plaintiffs, in which notice shall be clearly and explicitly contained the cause and causes of action, the name and place or places of abode of the intended plaintiff or plaintiffs, and of his and their attorney or agent, and no evidence shall be given on the trial of such action or suit of any cause or causes of action, than such as is or are contained in such notice; and the intended defendant or defendants to whom such notice shall have been delivered, may at any time before the expiration of such calendar month tender amends to the intended plaintiff or plaintiffs, his or their attorney or agent; and in case such amends are not accepted, may plead such tender in bar to any action or suit to be brought against him or them, grounded on such notice, writ, or process; and the defendant or defendants in every such action or suit may plead the general issue, and also such tender, and any other plea, with leave of the court, in bar of such action or suit; and may give this act and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the defendant in any such action or suit, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit, after the defendant or defendants shall have appeared; and if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant hath in any other case to recover costs by law; and every such action or suit which shall be brought against any collector or collectors appointed under this act, shall be defended by the commissioners acting for the division or place where such collector shall have been appointed, and the costs and charges attending the same, as also every other action or suit to be brought by or against commissioners or collectors in pursuance of this act, or for anything done in pursuance of this act, or any act for granting duties to be assessed under the regulations of this act, shall be defrayed by an assessment made on the parish or place for which such collector or collectors shall have been appointed, in a just proportion to the amount of the duties payable under this act, on the respective persons charged to the same in the assessment to be made next after the time when the said costs and charges shall have been incurred."

One month's notice.

Tender of amends.

General issue.

Treble costs.

Expenses of actions by or against commissioners, &c. shall be defrayed by assessment.

Commencement of the act. (See s. 1.)

Sect. 87. "That this act shall commence and take effect from and after the fifth day of April, 1804, as to all matters and things, except where directions are specially given by this act, in regard to assessments made or to be made by

virtue of any act or acts in force at the time of passing this act, at any time after the fifth day of April, 1803, for the present year, which provisions shall severally commence and take effect from the said fifth day of April, 1803." REGULATIONS,
&c.
43 Geo. 3, c. 161.

[Then are printed the several schedules (A) to (K), with the rules and exemptions. But as these were for the most part repealed and altered by subsequent acts, they are not here stated; and the *existing* schedules of *duties*, with the *rules* and *exemptions*, will be printed distinctly at the end of this division, *post*, 796.]

After the above act, (43 Geo. III. c. 161,) the several statutes enumerated, *The subsequent* ante, 698, 699, were passed. We will here only notice those which are most important.

The 48 Geo. III. c. 55, repeals the then duties of assessed taxes, and grants new duties in lieu thereof; and repeals the stamp duties on game-certificates, and grants new duties in lieu thereof, to be placed under the management of the commissioners for the affairs of taxes. 48 Geo. 3, c. 55.

Sect. 1 enacts, that the duties contained in the schedules to this act, (A) to (K), shall be levied instead of former duties.

Sect. 2 repeals the former duties, and enacts that the new duties shall be levied under the directions of 43 Geo. III. c. 161, *ante*, 756 to 785.

Sects. 3 and 4 repeal the stamp duties on game-licenses, and impose duties in schedule (L), in respect of killing game.

Sect. 5 enacts, that the new duties shall be assessed and collected, &c., under the powers of the 43 Geo. III. c. 99, *ante*, 700 to 723; 43 Geo. III. c. 161, *ante*, 756 to 785; 45 Geo. III. c. 5, *ante*, 723, c. 71, *ante*, 723.

Sect. 6 provides, that the commissioners, and other officers appointed for the assessed tax act, shall put in execution this act (48 Geo. III. c. 55), and that the monies levied shall be under the care of the commissioners for the affairs of taxes.

Sect. 7 provided allowances to receivers-general, collectors, and clerks; (but this was repealed by the 3 Geo. IV. c. 88, *ante*, 725.)

Sect. 8 then enacts, that the duties shall be carried to the consolidated fund.

Sect. 9 provides, that accounts of duties shall be kept and laid before Parliament, &c.

Then follow the schedules, the existing parts of which are at the end of this divisions, *post*, 796.

See the 48 Geo. III. c. 141, *ante*, p. 735 to p. 745.

The 50 Geo. III. c. 104, altered the duties on servants and carriages, but enacted that the new duties should be assessed under the regulations of former acts, and directed that makers of taxed carts should return their names, and keep accounts of carts sold; directed the makers of such carts to paint *place and owner's name* before delivery, and *subjected persons using carts without particulars painted* to a penalty; (a) exempted the duty on windows of a house used solely for the purpose of manufacture; and contained a schedule of duties on gardeners (repealed by 4 Geo. IV. c. 11, s. 1); a schedule of duties payable on taxed carts (repealed by 4 Geo. IV. c. 11, s. 1, 6 Geo. IV. c. 7, s. 1); a schedule of duties on four-wheeled carriages; and a schedule of duties on makers of taxed carts. 48 Geo. 3, c. 141,
50 Geo. 3, c. 104.

The 52 Geo. III. c. 93, granted new and additional duties. The schedules (C) and (D) of that act were repealed by the 4 Geo. IV. c. 11, and 6 Geo. IV. c. 7, s. 1. These will be incorporated in the schedules, *post*. 52 Geo. 3, c. 93.

The 54 Geo. III. c. 141, enacts, that the duties in schedule 53 Geo. III. relating to persons *assisting* in killing of game, shall cease, if assistance be given to another who has obtained certificate, &c. 54 Geo. 3, c. 141.

The 56 Geo. III. c. 66, reduced the duties on horses used for the purposes therein mentioned, for two years, and repealed the acts granting allowances in respect of children. The sections 1 to 10 are expired. The 11th section repealed the 46 Geo. III. c. 88, and 52 Geo. III. c. 147, as to allowances of duty in respect of children. 56 Geo. 3, c. 66.

(a) Repealed by 4 Geo. IV. c. 11, s. 4.

REGULATIONS,
&c.

57 Geo. 3, c. 25.

The 57 Geo. III. c. 25, explains and amends the 48 Geo. III. c. 55, and enacts, that tenements which have been occupied as dwelling-houses shall not be charged to duties under the recited act, when employed solely for the purposes of trade, or as warehouses, shops, or counting-houses; but that such tenements may be brought into assessment, and persons claiming relief shall give notice to appear, and deliver a declaration as therein mentioned; and sect. 2 provides, that if such tenements are used for any other purpose, then commissioners shall assess them accordingly. Sect. 3 is expired. Sect. 4 enacts, that mills, or places of manufacture, &c., not attached to a dwelling-house, shall not be liable to duty, though a servant, licensed to guard the same, abide therein. Sect. 5 exempts dairies in a farm-house, having only one window, from the window-duty. See the act, *post*, Schedule (B.)

58 Geo. 3, c. 16.

The 58 Geo. III. c. 16, relates to duties on horses, and was repealed by 1 & 2 Geo. IV. c. 110, as to reduced duties on husbandry horses; and see the 4 Geo. IV. c. 11, s. 1.

58 Geo. 3, c. 17.

The 58 Geo. III. c. 17, imposes certain different duties on four-wheeled carriages.

59 Geo. 3, c. 118.

59 Geo. III. c. 118, intituled, "An Act to give Relief in certain Cases of Assessment of Taxes in Great Britain, and to Persons compounding for their Assessed Taxes in Ireland, from an Annual Assessment for Three Years, from the Sixth Day of January, 1820."

Persons not liable to assessment after the 5th of April which shall next happen after bankruptcy or insolvency, for articles kept and used for trade, and surrendered, &c.

Proviso for payments made by assignees.

Certain exemptions from duties on persons employed as shopmen or as groom, &c.

Cause of exemption to be returned.

How far houses in trade employing travellers on foot, exempt from duty.

Assessments for 1817, 1818, and 1819, for any greater number than four travellers, may be reduced; which

"Whereas it is expedient to give Relief from certain Duties of Assessed Taxes in Great Britain, in the Cases hereinafter mentioned:" it is enacted, "that no person or persons becoming, or who shall have become bankrupt or insolvent, shall be liable to be assessed to the said duties after the fifth day of April next after the time of such bankruptcy or insolvency, in respect of any article or articles kept and used for the purposes of trade at or before the time of such bankruptcy or insolvency, which article or articles shall have been seized or surrendered, and *bona fide* sold under or by virtue of such bankruptcy or insolvency, and not kept or used by such bankrupt or insolvent after the fifth day of April next after such bankruptcy or insolvency: provided that nothing herein contained shall be construed to affect the payment by the assignee or assignees of every such bankrupt or insolvent, and such assignee or assignees shall pay the duties assessed on every such bankrupt or insolvent at the time of such bankruptcy or insolvency up to the fifth day of April next after the same shall have happened, as if this act had not been made."

Sect. 2. "That the duties imposed by the several acts for charging assessed taxes in Great Britain for every male person employed by any person in trade as a shopman, or in the capacity of a groom, stable-boy, or helper in the stables, shall cease and determine from and after the passing of this act, upon every assessment made or to be made after the fifth day of April, 1819, in respect of every person being the son of the employer or employers, or one of them, occasionally resident with his parent or parents, and so employed by him, her, or them, during such occasional residence only; and in respect of every male person so employed under the age of fifteen years, and wholly maintained and lodged in the house of his employer or employers, and in respect of any male person so employed, being of the age of fifteen years or upwards, and bound an apprentice to his employer or employers, or assigned to him, her, or them, until such apprentice shall arrive at the age of twenty-one years, or upwards, and wholly maintained and lodged in the house of his employer or employers: provided always, that the cause of every such exemption shall be truly returned and stated in the manner required by the acts in force at the time of passing this act."

Sect. 3. "That, from and after the fifth day of April, 1819, the same employer or employers in partnership together, who shall employ more than four male persons in the capacity of or as travellers to travel from place to place on foot, such shall be exempt for every male person so employed above the number of four, any former law to the contrary notwithstanding."

Sect. 4. "That it shall be lawful for the commissioners acting in the execution of the said acts and this act to reduce the amount of any assessments which shall have been made for the years ending the fifth day of April, 1817,

the fifth day of April, 1818, and the fifth day of April, 1819, respectively, on the employer or employers of such travellers on foot for any greater number of such travellers than four, according to the provisions of this act, and as if this act had been made prior to the fifth day of April, 1816; and in all cases where assessments so reduced shall have been previously paid by the parties, it shall be lawful for the said commissioners to certify the number of travellers so charged, and the amount which such assessments shall have been diminished, with the cause or causes thereof, to the commissioners for the affairs of taxes; and in that case it shall be lawful for the said commissioners for the affairs of taxes to order and direct the receiver-general of the county, riding, or division, who shall have received the sums so paid under such assessments, to repay to the party the amount so reduced, which order shall be an authority to such receiver-general to repay the same, and such re-payment shall be allowed in his accounts: provided always, that no such assessment shall be reduced, except upon a notice and declaration being delivered by the party making the claim to the surveyor, or the commissioners of the district or place where such assessment is made; and the parties so making any such claim shall appear before the said commissioners to verify the same in the manner required by the said acts in cases of appeal."

REGULATIONS,
&c.

59 Geo. 3, c. 118.
being certified to
commissioners
for taxes, they
shall order pay-
ment of the sum
reduced.

Notice by claim-
ant to surveyor.

Sect. 5. "That any person or persons chiefly retained and employed for the purpose of preserving game, as an under-keeper, under any gamekeeper duly appointed by any lord or lady of the manor, such gamekeeper being an assessed servant, shall not be liable to be assessed as an additional servant, but shall be assessed after the rate of 10s. per annum, and no more, unless such under-keeper be also employed in some other capacity by which he is liable to be assessed as a servant under the provisions of the said recited act of the fifty-third year aforesaid."

Under-game-
keeper not as-
sessed as an ad-
ditional servant,
but assessed at
10s. per annum.

The 4 Geo. IV. c. 11, repeals certain of the duties of assessed taxes, reduces other duties, and relieves persons who have compounded for the same.

4 Geo. 4, c. 11.

Sect. 1 enacts, "that, from and after the 5th day of April, 1823, in that part of Great Britain called England, Wales, and the town of Berwick-upon-Tweed; and from and after the 24th day of May, 1823, in that part of Great Britain called Scotland, for and in respect of and upon all assessments to be made for any year, commencing from the respective days and year last aforesaid, so much of the said duties on windows or lights in shops or warehouses, being parts of dwelling-houses chargeable by the said first-mentioned act, in respect of any number not exceeding three such windows or lights in any shop or warehouse, in the front or fronts, and on the ground or basement story of every dwelling-house occupied by any person or persons in trade, who shall expose to sale or sell any goods, wares, or merchandizes, in any such shop or warehouse; and also the whole of the said duties on gardeners, and on servants in husbandry or trade, and on taxed carts, and on horses, mares, geldings, or mules, hereinbefore respectively and particularly enumerated and described, and all assessments thereon for and in respect of any year commencing from and after the respective days aforesaid, shall severally cease and determine." (a)

Certain duties on
windows in shops
and warehouses,
and on certain
servants, taxed
carts, and certain
horses, repealed.

Sect. 2. "That, from and after the said 5th day of April, 1823, in that part of Great Britain called England, Wales, and the town of Berwick-upon-Tweed, and from and after the 24th day of May, 1823, in that part of Great Britain called Scotland, on all assessments to be made for any year commencing from the respective days last aforesaid, one moiety, and equal half part of each and every of the duties on windows or lights set forth in the said schedule marked (A.) of the said act, passed in the forty-eighth year of the reign of his said late majesty; and also one moiety and equal half part of each and every of the several duties on male servants and male persons, respectively set forth in the respective schedules marked (C.), No. 1, No. 3, and No. 4, of the said acts, passed in the forty-eighth and fifty-second years of the reign of his said late majesty; and also one moiety and equal half part of each and every of the duties on carriages with four wheels, and of each and every of the duties on carriages

One moiety of the
duties on win-
dows;

on male servants;

on carriages;

(a) The repeal of the duties of 3s., 2s. 10d., and 2s., extended to horses under thirteen hands.

REGULATIONS,
&c.

4 Geo. 4. c. 11.

and on horses, to
cease.Reduced duties
not to include
any fraction of
one penny.Commissioners
to deduct so
much of duties
compounded for,
as are repealed,
and to cause re-
duced amount
to be inserted in
assessments of
composition.Contracts in force
for recovering
reduced instal-
ments.No other duties
to be substituted
in respect of the
use or employ-
ment of oc-
casional servants,
taxed carts, and
horses, heretofore
chargeable with
the duties, re-
pealed.

with two wheels, respectively set forth in the respective schedules marked (D.) No. 1, No. 2, No. 3, and No. 4, of the said acts, passed in the forty-eighth and fifty-second years aforesaid; and also of the duties on carriages granted by Schedule (D.), No. 2, of the act passed in the fiftieth year of his said late majesty's reign, and also by another act passed in the fifty-eighth year of his said late majesty's reign, intituled, 'An Act for Charging certain Duties on Four-Wheel Carriages, constructed and drawn in the Manner therein stated;' and also one moiety and equal half part of the duties made payable on all *horses, mares, geldings, or mules*, respectively set forth in the respective schedules of the said acts, passed in the forty-eighth and fifty-second years aforesaid, marked Schedule (E.), No. 1, Schedule (E.), No. 2, Schedule (E.), No. 3, and Schedule (F.), No. 1; also, one moiety and equal half part of the duties on horses, mares, geldings, or mules, described in and granted by an act passed in the fifty-ninth year of his said late majesty's reign, intituled, 'An Act to continue Two Acts of the Fifty-Sixth and Fifty-Eighth Years of his present Majesty, for reducing the Duties payable on Horses used for the Purposes therein mentioned, to the Fifth Day of April, One Thousand Eight Hundred and Twenty-One, and to reduce the Duties chargeable under certain Acts of the Forty-Eighth and Fifty-Second Years of his present Majesty, in respect of certain Horses, Mares, Geldings, and Mules;' and which duties so reduced were made perpetual by the said act, passed in the first and second years of the reign of his said present majesty, *shall respectively cease and determine*, and be no longer paid or payable: provided, nevertheless, that the duties hereby reduced, and to be hereafter assessed and payable, shall not include any fraction of 1d."

Sect. 3. "That it shall and may be lawful for the respective commissioners acting in the execution of the said acts and of this act, in their respective districts, and they are hereby authorized and required, to remit and deduct so much and such parts of the duties compounded for and included in any such contract as are repealed by this act, and also so much of the additional duty granted by the said acts, and payable by any such contract on the amount of any duty, or any portion of the duties so repealed, and to cause such reduced amounts to be inserted in the assessments of composition, and in the several duplicates thereof, to be delivered and returned by the said commissioners under the said acts in their respective districts, after the said 5th day of April, 1823, and during the periods of such respective compositions; and every such contract shall be of the same force and effect for the recovery and enforcing payment of the reduced instalments under the provisions of the said acts and of this act, to commence from the 5th day of April, 1823, to all intents as if the full amount of the instalments compounded for continued payable on such contracts."

Sect. 4. "That nothing herein contained shall be construed to revive, set up, or substitute any higher or other duty of assessed taxes granted by any of the said acts in lieu of the duties hereby repealed, on all and every the person and persons respectively in the said acts described, who before the passing of this act were by the said recited acts authorized and empowered, on payment of the duties hereby repealed, to employ any male servant or person in the capacities first hereinbefore enumerated, or to keep or use any carriage hereinbefore described as a taxed cart, or any horse, mare, gelding, or mule hereinbefore also described, on payment of the duties hereby respectively repealed; but that all and every such person or persons who at any time within the year ending on the 5th day of April, 1823, in England and Wales, or the 24th day of May, 1823, in Scotland, have kept, retained, or employed, or who shall or may, from and after the passing of this act, retain or employ any such male servants and persons respectively, and keep and use any such carriage of the description of a taxed cart, and any horse, mare, gelding, or mule respectively, in the manner and according to the schedules, rules, and provisions prescribed by the said acts granting the said duties hereby repealed, shall and is hereby declared to be free of any other or higher duty or assessment chargeable under the said acts relating to the assessed taxes, for and in respect of the said male servants, persons, carriages, and horses respectively, for any year or years commencing from and after the respective days last aforesaid; and all and every the sche-

dules, rules, and provisions of the said acts, for regulating and charging the said duties hereby repealed, shall remain and continue in full force and effect for protecting all and every such persons heretofore chargeable with such duties so repealed by this act, from any other or higher duty in lieu of the duties so repealed, so far as such servants, carriages, and horses respectively shall have been or shall be kept, employed, and used, in the manner and for the purposes in and by the said schedules, rules, and provisions last aforesaid respectively prescribed and allowed: provided nevertheless, that so much of the provisions contained in any of the said acts which require the words '*Taxed Cart*,' and the owner's Christian and surname, and place of abode, and also the name and place of abode of the maker thereof, and the full value thereof, or the actual price or consideration paid or given for the same, to be marked or painted on a black ground in white letters, on the outside of the back pannel, or back part of any carriage, shall, from and after the passing of this act, be and are hereby declared to be discontinued and repealed; but every such carriage last aforesaid shall in every other respect (except as herein varied) be built and constructed according to the regulations of the said acts, and the rules therein contained; and it shall be lawful for any person or persons keeping and using any horse, mare, gelding, or mule, *bona fide* for the purposes of husbandry, to use any such horse, mare, gelding, or mule in drawing any carriage of the description of a taxed cart, the duty whereon is repealed by this act, and kept by any such person respectively for his, her, or their own use, free of any duty chargeable under the said acts in respect of any such horse, mare, gelding, or mule, in and by any assessment to be made for any year commencing from and after the said 5th day of April, 1823."

Sect 5. "That the powers and provisions contained in an act passed in the fifty-ninth year of the reign of his said late majesty, for giving relief from the duties charged on shopmen by the said acts to every male person wholly maintained and lodged in the house of his employer or employers, such persons respectively being under the age of fifteen years, shall, upon every assessment made or to be made after the 5th day of April, 1823, be extended to all and every such male person described in the said act, being respectively under the age of eighteen years: provided always, that the causes of every exemption in respect of any such male person shall be truly returned and stated in the manner directed by the said act, and the several other acts in force before the passing of this act."

Sect 6. "That in case any person who, having compounded under the said recited acts in respect of a carriage with two wheels, shall be desirous, during the year commencing on the 5th day of April, 1823, of discontinuing to keep the same, and of substituting a carriage with four wheels in lieu thereof, it shall be lawful for him, her, or them so to do, on giving notice of such his or her intention to the surveyor of the said duties acting for the district in which such person shall reside, within six calendar months after the passing of this act, on payment of the difference of duty so compounded for on a two-wheeled carriage, and reduced by this act, and the duty chargeable by the said act, and also reduced by this act, on a four-wheeled carriage, together with the duty of *5l. per centum* on such difference, to be indorsed by certificate on every such contract of composition by any two of the commissioners acting in the execution of the same acts in the district in which such contract shall have been entered into, and to be made payable from and after the 5th day of April, 1823, by half-yearly instalments, during the continuance of the said contract; and which additional payments shall be enforced in like manner as if they were originally inserted in every such contract; and any person seeking the benefit of this provision shall and may, during the continuance of his or her said composition, keep and use any four-wheeled carriage free of duty." (a)

Sect 7. "That copies of all cases, which shall, after the passing of this act, be stated and signed by any commissioners acting in the execution of the said acts and of this act, at the instance and request of any assessor, inspector, sur-

REGULATIONS,
&c.

4 Geo. 4, c. 11.

48 Geo. 3, s. 85,
Schedule (D.)
50 Geo. 3, c. 104,
s. 5, 52 Geo. 3,
c. 93, Schedule
(D.) in part re-
pealed.

Exemptions to
shopmen under
fifteen years, ex-
tended to shop-
men under
eighteen years.

Proviso.

Persons having
compounded for
a two-wheel car-
riage may sub-
stitute a four-
wheel carriage in
the composition,
paying the dif-
ference of duty,
and other duties
herein men-
tioned.

Additional pay-
ments enforced.

Copies of Tax-
Office cases de-
termined by the
Judges to be an-
nually laid be-
fore Parliament.

(a) Persons so compounding to have the privileges of persons originally com-
pounding for a four-wheel carriage, &c.

REGULATIONS,
&c.

4 Geo. 4, c. 11.

Enabling commissioners to exempt occupiers having three children and wholly maintained by them, from duty on windows, where the house has not more than six windows. (a)

5 Geo. 4, c. 44.
Exemption by 57 Geo. 3, c. 25, to persons in trade, from house and window duties;

extended to persons using houses under like circumstances as offices or counting-houses in their professions or other callings.

Exemption not to extend to chambers in inns of court or colleges in the universities.

vevor, or person appealing under the powers in the said acts contained, and which shall be determined by any one or more of the justices of the Courts of King's Bench or Common Pleas, or of the barons of the Court of Exchequer, for the time being at Westminster, in England, Wales, or Berwick-upon-Tweed, or by any one or more of the lords of the court of sessions or barons of the Court of Exchequer in Scotland, shall, together with a copy or copies of the said judge's or judges' opinion and determination thereto subscribed, duly certified by the solicitors for the affairs of taxes for England and Scotland respectively, be annually laid before Parliament, within twenty-one days after the meeting thereof."

Sect. 8. "That, upon any assessment of the said duties to be made upon the occupier of any *such* dwelling-house (viz. dwelling-houses not having *more than six windows*), from any year commencing from or after the fifth day of April, 1823, it shall be lawful for the respective commissioners acting in the execution of the said acts and of this act, in their respective districts, to grant relief to any such occupier having three children born in lawful wedlock, and wholly maintained by him or her, and at his or her expense, and to strike out the charge on any such occupier on the proof by the rules and in the manner authorized and required by the said recited acts in cases of exemption from the said duties by reason of poverty."

Sect. 9 enacts, that all powers granted to commissioners and officers under former acts shall extend to this act.

The 5 Geo. IV. c. 44, s. 4, after reciting, that "whereas, by an act passed in the fifty-seventh year of his said late majesty's reign, provision is made for granting exemptions to persons in trade from the duties on houses, windows, and lights, and on inhabited houses, in respect of houses, tenements, or buildings, or parts of tenements or buildings, used solely by such persons for the purposes of trade, such persons respectively residing in a separate and distinct dwelling-house, or part of a dwelling-house, charged to the said duties, as in the said act described; and whereas it is expedient to extend the said exemptions to the cases herein mentioned;" enacts, "that, upon all assessments to be made for any year commencing from and after the fifth day of April, 1824, the provisions in the said act contained, for granting exemptions from the said duties to persons in trade, in respect of houses, tenements, or buildings, in the said act described, shall and may be extended and applied by the respective commissioners and officers acting in the execution of the said act and of this act, on due proof, to all and every person, or any number of persons in partnership together, for and in respect of any house, tenement, or building, or part of a tenement or building, in the said act described, which shall be used by such person or persons as *offices or counting-houses*, for the purposes of exercising or carrying on any profession, vocation, business, or calling, by which such person or persons shall seek a livelihood or profit, *no person inhabiting*, dwelling, or abiding therein, except in the day-time only, for the purpose of such profession, vocation, business, or calling, such person or each such persons in partnership respectively residing in a distinct and separate dwelling-house, or part of the dwelling-house, charged to the said duties; provided, nevertheless, that the exemption herein authorized shall not extend to any chamber or apartment in any of the inns of court or of Chancery, or to any college or hall in either of the universities of Oxford or Cambridge, now chargeable with any of the said duties; and the said exemptions hereby authorized shall be claimed and allowed on due proof, and the assessments thereupon discharged by the same rules, and in like manner and form, as are allowed by the said act to persons in trade; and all and every the provisions in the said act contained shall be observed, followed, and practised by the respective commissioners, inspectors, surveyors, assessors, and other persons in the said act described, in granting exemptions and discharging assessments under the provisions of this act, to all intents as if such provisions formed part of the said

(a) *Seem*, that this section is no longer in force, as the 6 Geo. IV. c. 7, s. 1, entirely repeals the duties on windows when the house has less than eight windows. See post, 791.

act, passed in the fifty-seventh year aforesaid; anything herein contained to the contrary notwithstanding."

The 6 Geo. IV. c. 7, repeals certain duties of assessed taxes.

Sect. 1. "The several and respective duties granted and now payable to his majesty, by an act passed in the 48th year of the reign of his late majesty King George the Third, and as set forth in the schedule thereto annexed, marked (A.) (in the said first-mentioned act recited), for every dwelling-house, with the offices therein described, containing not more than six windows or lights, and not worth the rent of 5*l.* by the year; and for every dwelling-house, with the offices aforesaid, containing not more than six windows or lights, and of the said value of 5*l.* by the year; and for every such dwelling-house, with the offices aforesaid, containing *not more than seven windows or lights*; and also such of the duties of 1*s.* 6*d.* in the pound, granted on *inhabited dwelling-houses* by the said act passed in the forty-eighth year aforesaid, and the schedule thereunto annexed, marked (B.), as are now charged and chargeable, by the rules and directions therein contained, for every inhabited dwelling-house, with the offices and lands therein described, *being under the rent or value of 10*l.* by the year*; and also the several and respective duties granted and payable to his majesty by the said act passed in the forty-eighth year aforesaid, and described in the schedule thereto annexed, marked (C.), No. 3; and in another act, passed in the fifty-second year of the reign of his said late majesty, and as set forth in the schedule thereto also annexed, marked (C.), No. 3, (in the said first-mentioned act also described), so far as such last-mentioned duties are severally charged "or chargeable in respect of every *male person* employed as an *occasional waiter* in any tavern, coffee-house, inn, or other house, in the said schedule mentioned, for a period of six calendar months, and also for a lesser period than six calendar months in any year respectively; and for every such person, not being a servant, who has been or shall be employed as an occasional waiter in any private house, not less than six times within the year; and for every *male person* employed by any *stable-keeper* for or in expectation of profit, to take care of any horse, mare, or gelding, kept for the purposes of racing, running, or training, as therein described; and also all and every the duties on *taxed carts* granted to his majesty by an act passed in the fiftieth year of the reign of his said late majesty, and the schedule thereto, marked No. 2; and also by the said act passed in the fifty-second year aforesaid, and described and set forth in the schedule thereto annexed, marked (D.), No. 4; and also all and every the duties granted to his majesty by the said acts passed in the forty-eighth and fifty-second years aforesaid, and by the same schedule, marked (D.), No. 5, and payable by *coachmakers* and makers of other carriages chargeable with duty by the said act, and on carriages made, sold, or repaired, as therein mentioned; and also the several duties granted to his majesty under the provisions of the said last-mentioned acts, and made payable by the said schedule marked (D.), No. 6, by persons *selling carriages by auction* or on commission; and also the duty granted to his majesty on *carriages with four wheels*, drawn by ponies, mules, oxen, or asses, and made payable by an act passed in the fifty-eighth year of his said late majesty's reign, intituled, 'An Act for charging certain Duties on Four-wheeled Carriages constructed and drawn in the manner therein described;' and also the duty granted to his majesty by an act passed in the fifty-ninth year of the reign of his said late majesty, upon every person keeping any *mule* or mules for the purpose of carrying ore, slate, or stone, coal, or culm, to or from the mine or pit, or for the purposes of carrying lime, sea-sand, sea-weed, or other manure, on the backs of such mules, as therein mentioned, shall severally and respectively cease and determine; and all assessments for any year commencing as aforesaid, so far as the same shall apply to or contain all or any of the duties hereby repealed, shall be null and void."

Sect. 2. "That where the occupier or tenant of any dwelling-house, cottage, or tenement, chargeable with duty, shall quit the same after an assessment shall be made, and such occupier shall give notice thereof, on so quitting, to the assessor, in the manner directed by the said acts, the duty thereon shall be discharged by the commissioners for executing the said acts and this act, for

REGULATIONS, &c.

6 Geo. 4, c. 7.
Repeal of duties on windows in dwelling-houses with not more than seven windows. Schedule (A.) of 66 Geo. 3, c. 66.

Schedule (B.)
Inhabited dwelling-houses under 10*l.* per annum.

Schedule (C.)
No. 3
62 Geo. 3, c. 93.
Schedule (C.)
No. 2.

Occasional waiters in taverns, private houses, &c.

Male persons taking care of race-horses; taxed carts;
60 Geo. 3, c. 101.
No. 2.

62 Geo. 3, c. 93.
Schedule (D.)
No. 4.
Schedule (D.)
No. 5.
Schedule (D.)

No. 6.
Coachmakers, &c.

Four-wheel carriages drawn by ponies, &c.
60 Geo. 3, c. 17.
60 Geo. 3, c. 12.
Mules carrying ore, &c. repealed.

Proviso for houses becoming unoccupied; although not at the expiration of occupier's lease.

REGULATIONS,
&c.

6 Geo. 4, c. 7.

In what case
houses completed
and occupied after
yearly assessments
to be assessed only
for portion of year.

In what manner
increases by
opening of win-
dows made.

In default of no-
tice, assessments
made or mended
for the whole
year.

In what case as-
sessments are to
be made for the
whole year, ac-
cording to the full
number of win-
dows chargeable
with duty.

An unfurnished
house, *bona fide*
quitted, deemed
an unoccupied
house, though
committed to a
person to take
care thereof.

Proviso for
charge when such
house becomes
again occupied.

the particular quarter or quarters of the year of such assessment, during which it shall appear to the said commissioners such house, cottage, or tenement, shall have continued for each entire quarter wholly empty and unoccupied, and although any such quitting shall not have taken place on the actual determination of the lease or demise by which such occupier or tenant held the premises, in the manner described by the said act passed in the forty-eighth year aforesaid: provided also, that where any house, cottage, or tenement shall not have been built, or otherwise completed for occupation, at the time of making the assessments yearly, as directed by the said acts, and the same shall, after the expiration of the first or of any succeeding quarter of the year, become occupied during a portion only of the year of assessment, such house, cottage, or tenement, shall, on notice of the commencement of occupation, to be given by the occupier in the manner directed by the said act, be assessed and charged with the said duties for that part only of the year of assessment during which such house, cottage, or tenement, shall be actually occupied,—to wit, from the end of the quarter of the year preceding such occupation; and when any window or windows shall be made, opened, or restored in any dwelling-house, cottage, or tenement, after the commencement of each year's assessment, and notice thereof shall be given as directed by the said acts, the assessments for the windows or lights in such house, cottage, or tenement, shall be amended in respect of any such additional window or windows, and the duty shall be charged and assessed for the full number of windows for the remainder only of the year commencing from the end of the quarter of the year preceding the increase of such window or windows; provided always, and in every case of default of notice of the commencement of occupation, or of the increase of windows, as directed by the said acts in the cases herein mentioned, and also in every case where any house, cottage, or tenement, shall become occupied, or the additional window or windows therein shall be made or restored within and before the expiration of the first quarter of the year of assessment, the assessments or amended assessments herein directed shall be made and payable for the whole of the year within which such occupation shall have commenced, or such additional number of window or windows shall have been made or restored: provided further, and where any additional window or windows shall be made, opened, or restored, in any house, cottage, or tenement, containing, at the commencement of the year of assessment not more than seven windows or lights, and thereby made free of duty under the directions of this act, such house, cottage, or tenement, shall immediately thereupon become chargeable with duty for and in respect of the full number of windows therein; and an assessment shall in like manner be made, and the duties charged according to such full number of windows, and levied on the occupier or occupiers in respect thereof, for the whole of the year in which any such additional window or windows shall be made, opened, or restored; all which assessments shall be made, amended, levied, and collected, by the like rules as any assessment to the said duties is directed to be made, amended, levied, and collected, under the directions of the said acts; anything in the said acts or this act contained to the contrary notwithstanding."

Sect. 3. "That any house or tenement from which the owner or occupier shall have *bona fide* removed, and which shall be wholly unfurnished at the time of making the assessment, shall be deemed and taken to be unoccupied, and not liable to assessment, although such house or tenement shall or may be left or committed to the care or charge of a person or servant who shall or may have been placed, and shall dwell therein solely for the purpose of airing the same, and of preventing depredation or injury to the premises during the period of their being so unoccupied: provided always, and every such house or tenement shall afterwards, and within the year of assessment, be liable to be brought into charge for the whole or a portion of the year, and shall be assessed in the manner directed by the said acts, on the same coming into the possession or occupation of any other person or persons, according to the rules and provisions of the said acts; and where any such house or tenement shall become unoccupied in manner aforesaid, at any time after the commencement of the year, and after an assessment made thereon, it shall be lawful for the respective

commissioners, on due notice thereof by the owner or tenant, as in the other cases hereinbefore provided, to discharge such assessment for the entire quarter or quarters of the year during which it shall appear to the said commissioners such house or tenement shall have so continued wholly unfurnished and unoccupied, save and except by a person or servant for the purposes aforesaid; anything in the said acts or in this act contained to the contrary notwithstanding."

Sect. 4. "That the exemption from duty granted by an act passed in the fifty-seventh year of the reign of his late majesty, for one glazed window in any room used as a dairy or cheese-room in any dwelling-house being a farm-house, in the said act described, shall and is hereby declared to extend, from and after the fifth day of April, 1825, to any one such window made with glass in any dairy, and to any one such like window made with glass in any cheese-room, where such rooms shall be distinct, and there shall be more than one room used for such purposes, or either of them, in any farm-house in the said act described: provided that the exemption for more than two such windows shall not in any case be claimed or allowed for any farm-house; and the further exemption hereby granted shall be claimed and allowed in the manner directed by the said act in the case of one such glazed window."

Sect. 5. "That, upon all assessments to be made for any year commencing from and after the fifth day of April, 1825, all and every the window or windows in any part of a dwelling-house, tenement, or building, or of the household and other offices described in the said act, which shall be an interior window constructed so as wholly to derive and give light from any other window or windows in the exterior wall or walls, or outside of any such house, tenement, or building, or offices aforesaid, or on the roof or roofs thereof respectively, such exterior window or windows being duly charged to the said duties, shall not be deemed and taken to be a window or light chargeable with duty; and so much of the rules and provisions in the said act contained, as relate or extend to the assessing and charging any such interior window or light, shall be, and the same are hereby repealed."

Sect. 6. "That where the whole or part only of any dwelling-house, being a farm-house, divided or not divided into distinct tenements, shall be occupied by any labourer or labourers, servant or servants, *bonâ fide* retained and employed in affairs of husbandry by the occupier or tenant of the farm to which such dwelling-house shall belong, and no part thereof shall be occupied by the occupier or tenant of the said farm, or by any other person or persons (except as aforesaid), such dwelling-house, and the landlord, occupier, or tenant, shall, during the continuance of the occupation in manner aforesaid, be exempt from any duty chargeable for such house by the said acts: provided that every such exemption shall be duly claimed by the occupier or tenant of the farm, and allowed in the manner directed by the said acts as in other cases of exemption from the said duties."

Sect. 7. "That, upon all assessments of the said duties, to be made for any year commencing from and after the fifth day of April, 1825, it shall and may be lawful for the commissioners acting in the execution of the said acts, and of this act, in their respective districts, and they are hereby authorized and empowered, at the instance and request of any occupier or occupiers of any house, tenement, or building, for which exemption from the said duties is provided, and shall be duly claimed and allowed under the provisions of the said acts, to grant to any such occupier or occupiers a license in writing, signed by any three of such commissioners, at a meeting and in the manner by the said first-mentioned act prescribed, authorizing such occupier or occupiers to appoint any one of his or her servant or servants named in such license to watch and guard such house, tenement, or building in the night-time; and that the abiding of such licensed servant therein, for the purposes only of watching and guarding the same under such license, shall not render the occupier thereof liable to the duties by the said acts granted, for the year in which such exemption shall be allowed, and such license shall be obtained; and which

REGULATIONS,
&c.
6 Geo. 4. c. 7.

Exemption for one glazed window in dairy or cheese-room of farm-house, by 57 Geo. 3. c. 25, s. 4, extended to two such windows, in certain cases. (a)

Duty on interior windows deriving light from exterior windows, repealed.

A farm-house, or part thereof, *bonâ fide* occupied by the labourers and servants of the farmer, exempt from duty.

Proviso.

Houses or tenements used only in the day-time for trade, &c. may be watched and guarded by a servant in the night, free of duty, a license having been obtained from the commissioners for executing the said acts.

(a) See the exemptions in the 48 Geo. III. c. 55, 799, 800.

REGULATIONS,
&c.

6 Geo. 4, c. 7.
No higher or
other duties to be
substituted for
those repealed.

Proviso.

Proviso for persons assessed for carriages with less than four wheels employing persons herein described as a groom, &c.

Victuallers employing boys under 15.

Persons keeping taxed-cart using seats not fixed, &c.

Carriages with three wheels.

Farmers under 200*l.* a-year, letting horses occasionally for hire.

Repeal of duties on coachmakers not to exempt them from liabilities herein mentioned under existing acts.

license shall not in any case extend to authorizing any servant or servants to be named therein, or any part of his or her family, to inhabit or dwell in any such house, tenement, or building, as a place of residence; anything in the said acts contained to the contrary notwithstanding."

Sect. 8. "That nothing herein contained shall render any person or persons liable to a higher or other duty of assessed taxes in lieu of the duties hereby repealed, so far as the same apply to the particular person or article employed, kept, or used; provided that the employment or use, and also the construction of any carriage, shall not exceed the employment, use, or construction respectively allowed under the regulations of the said acts or of the act, and the rules and schedules therein, by which such duties hereby repealed were granted and regulated; and the provisions of the said act passed in the fourth year of his said majesty's reign, so far as the same apply to the protection of persons from further assessment to any other duty in lieu of the duties thereby repealed (subject as therein mentioned), shall be extended and applied to the duties hereby repealed, to all intents as if the said provisions were re-enacted by and made particularly applicable to the provisions of this act; and where any person or persons shall be chargeable with and duly assessed to the duty for any carriage with less than four wheels, and shall occasionally employ, in the capacity of groom, stable-boy, or helper in the stable, any person *bonâ fide* retained by him, her, or them for the purposes of husbandry, manufacture, or trade, such person or persons shall not be charged with any duty payable by the said acts in any year commencing from and after the said fifth day of April, 1825, for a male person, by reason of such occasional employment; and where any person, being a victualler duly licensed to sell ale or beer, shall employ any one male person under the age of fifteen years to draw, carry out, or deliver by retail any ale, beer, or liquors, which any such victualler shall be duly licensed to sell, such victualler shall not be liable to any duty chargeable by the said acts for one such male person, by reason of such employment; and any person who shall have kept and used, or who shall keep and use, any carriage, built and constructed in every respect as a taxed cart, under the rules and regulations of the said acts, shall not be liable to any other or higher duty for such carriage in lieu of the said duty on taxed carts hereby repealed, although such person shall or may have used, or shall use, the same with the seat of such carriage not fixed, or with such seat suspended by slings or braces; and any person who shall have kept and used, or who shall keep and use any carriage with three wheels, in every respect (other than in the number of wheels) built and constructed, and within the description contained in the said act passed in the fifty-eighth year of the reign of his said late majesty, for charging the duty hereby repealed on carriages with four wheels drawn by ponies, mules, oxen, or asses, shall not be chargeable with any duty for such carriages with three wheels; and any person or persons occupying a farm of less annual value than 200*l.* per annum, and making a livelihood principally thereby, shall be exempt from duty for any horses, mares, or geldings *bonâ fide* kept and generally employed by such person or persons for the purposes of husbandry on such farm, although such horses, mares, or geldings, or any of them, shall be occasionally let to hire or used by such person or persons in drawing for hire or profit, in the manner allowed by an act passed in the third year of the reign of his present majesty, by occupiers of farms of the like annual value, and making a livelihood solely thereby, and from the profits of such letting and use; anything in the said several acts contained to the contrary notwithstanding."

Sect. 9. "That the repeal by this act of the said duties on coachmakers and on makers of carriages, and also on persons selling carriages by auction or on commission, shall not in any manner be construed or taken to exempt any or either of such description of persons from their several liabilities to keep and make entries for inspection, in books, of carriages built or constructed in the manner required by the said acts, and to deliver copies of entries made in such books to the assessor or assessors in the said acts described, subject to the penalties for default thereof, and relating thereto respectively, as provided and required by the several acts in force at the passing of this act; and which

provisions, so far as the same apply to such coachmakers, and makers and sellers of carriages, are hereby declared to remain in full force; anything in this act contained to the contrary notwithstanding."

Sect. 10. "That where any contract of composition now in force for any of the duties of assessed taxes doth contain any duty or duties repealed, or for which exemption is provided by this act, it shall be lawful for the commissioners acting in the execution of the said acts and of this act, in their respective districts, and they are hereby authorized and required, to cause every such contract, and the assessments and duplicates thereof or relating thereto, to be reduced in respect and to the amount of any such duty or duties hereby repealed or exempted, with the additional duty payable thereon by virtue of such contract; and every such reduction shall commence and take effect from and after the days herein directed for the repeal of or exemption from such duties respectively; all which reductions shall and may be made under the rules and provisions of the said first-mentioned act passed in the fourth year of the reign of his said majesty, and of the several other acts in that behalf; and every such contract so reduced shall be of the same force and effect for the recovery and enforcing payment of the reduced instalments, to all intents as if the full amount of the instalments compounded for continued payable on such contracts."

REGULATIONS,
&c.

6 Geo. 4, c. 11.
Authority to commissioners of districts to reduce contracts of composition which contain any duty hereby repealed.

Contracts to be in force for payment of reduced instalments.

Sect. 11. "That it shall and may be lawful for the commissioners of his majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any three or more of them, for the time being, or the high treasurer thereof for the time being, to order and direct the allowance and discharge of such actual expenses, or any part thereof, as shall be necessarily incurred by any such clerk in the due execution of the said acts, where such allowance shall appear to the said last-mentioned commissioners or high treasurer reasonable and proper to be made, over and above the allowance by poundage made to any such clerk for the particular year of assessment to which such expenses shall relate, under the authority of the said act; and the certificate of the commissioners for the affairs of taxes, or any three or more of them, shall be an authority to the receivers-general respectively to pay such further allowance."

Treasury may allow compensation to clerks of commissioners, when poundage found to be inadequate.

Sect. 12. "That in every case where any certificate for exemption on account of poverty, obtained in the manner by the said acts directed, shall be duly made and delivered to the respective commissioners, and shall be found and adjudged by them respectively to be sufficient for exempting any person or persons from any of the duties in respect of his or her dwelling-house hereby repealed, if such duties had continued payable, it shall and may be lawful for the said respective commissioners, and they are hereby authorized, upon the allowance of any such certificate, to grant the said exemption for one such dog, to all intents as if the said duties in respect of the dwelling-house of the person seeking the benefit of the said exemption had been discharged from the assessment under any such certificate: provided always, that a due assessment shall be made for every such dog, and that the discharge thereof shall be made by the respective commissioners on the production and allowance of the said certificates, and in the manner prescribed for granting exemptions by the said acts."

Exemptions to poor persons for one dog continued, notwithstanding repeal of certain duties on dwelling-houses.

Proviso.

Sect. 13. "That the several powers and provisions contained in this act shall be carried and put into execution by the several commissioners, assessors, collectors, inspectors, surveyors, and other officers appointed and acting in the execution of the said acts in their respective districts, and the several powers, rules, and provisions in the said acts contained, in assessing, collecting, granting exemptions from and enforcing, paying, and accounting for the said duties and compositions (except so far as the same are herein varied, or for which other provisions are made by this act), shall be practised and put in execution by such commissioners and other officers respectively, to all intents, and subject to the like penalties and forfeitures and authorities to enforce and recover the same, as if such powers, rules, and provisions, penalties and forfeitures, had been expressly re-enacted and incorporated in and by this act; anything in this act contained to the contrary notwithstanding."

Powers granted to commissioners and officers under former acts to extend to this act.

III. Of the Assessed Taxes themselves.

Secondly—THE DUTIES,

with the particular Rules and Exemptions affecting them. (a)

We have seen that the 43 Geo. III. c. 161, and 48 Geo. III. c. 55, and the subsequent acts, after prescribing the general *rules* affecting the whole subject, enact *what duties* shall be paid, subject to certain *particular rules* and *exemptions*, in certain schedules, (A.) to (N.), which we will now proceed to consider in the following order: viz.

SCHEDULES.

- (A.) On Houses according to Number of Windows.
- (B.) On Inhabited Houses.
- (C.) On Servants.
- (D.) On Carriages.
- (E.) On Horses.
- (F.) On Horses not charged under last Schedule, and on Mules.
- (G.) On Dogs.
- (H.) On Horse-Dealers.
- (I.) On Hair-Powder.
- (K.) On Armorial Bearings.
- (L.) Game Licenses.
- (M.) Exemptions.
- (N.) Forms of Certificates.

SCHEDULE (A.) ON WINDOWS.

48 Geo. III. c. 55; 4 Geo. IV. c. 11, s. 8; 6 Geo. IV. c. 7, s. 1.

*Schedule (A.)
Duties on Win-
dows.*

A SCHEDULE of the Duties made payable for every DWELLING-HOUSE within and throughout Great Britain, according to the NUMBER OF WINDOWS or Lights in each Dwelling-House and the Offices to be charged therewith.

NUMBER OF WINDOWS According to which the Dwelling-House and Offices under- mentioned shall be charged.	Duties to be charged for Windows in every Dwelling- House and Offices in England, Wales, and Berwick-upon- Tweed, 48 G. 3, c. 55, Schedule (A.)		Duties now pay- able. (c)
	£.	s.	d.
Not more than 6 windows or lights (except in such houses which shall be worth the rent of 5 <i>l.</i> by the year, and shall be charged to the duty mentioned in schedule (B.), according to the rent thereof) (b)	0	6	6
Not more than 6 windows or lights, if of the va- lue before mentioned, and charged to the said duty accordingly (b)	0	8	0
7 windows or lights (b)	1	0	0
8 — do.	1	13	0
			0 16 6

(a) See the division of the subject, *ante*, p. 755.

(b) The first three of this list of duties is repealed by the 6 Geo. IV. c. 7, s. 1, which takes off the window-tax on houses having less than eight windows. *Ante*, 791.

(c) The duties payable under the 48 Geo. III. c. 55, were reduced to one moiety, by the 4 Geo. IV. c. 11, s. 2, *ante*, 787. This second column, therefore, shows the *present* duties.

III. Of the Assessed Taxes themselves.

797

SCHEDULE (A.) ON WINDOWS—(Continued.)

*Schedule (A.)
Duties on Win-
dows.*

NUMBER OF WINDOWS According to which the Dwelling-Houses and Offices under mentioned shall be charged.		Duties to be charged for Windows in every Dwelling- House and Offices in England, Wales, and Berwick-upon- Tweed.	Duties now pay- able. (c)
		£. s. d.	£. s. d.
9 windows or lights		2 2 0	1 1 0
10 — do.		2 16 0	1 8 0
11 — do.		3 12 6	1 16 3
12 — do.		4 9 6	2 4 9
13 — do.		5 6 6	2 13 3
14 — do.		6 3 6	3 1 9
15 — do.		7 0 0	3 10 0
16 — do.		7 17 0	3 18 6
17 — do.		8 14 0	4 7 0
18 — do.		9 10 6	4 15 3
19 — do.		10 7 6	5 3 9
20 — do.		11 4 6	5 12 3
21 — do.		12 1 0	6 0 6
22 — do.		12 18 0	6 9 0
23 — do.		13 15 0	6 17 6
24 — do.		14 11 6	7 5 9
25 — do.		15 8 6	7 14 3
26 — do.		16 5 6	8 2 9
27 — do.		17 2 0	8 11 0
28 — do.		17 19 0	8 19 6
29 — do.		18 16 0	9 8 0
30 — do.		19 12 6	9 16 3
31 — do.		20 9 6	10 4 9
32 — do.		21 4 6	10 12 3
33 — do.		22 3 0	11 1 6
34 — do.		23 0 0	11 10 0
35 — do.		23 16 6	11 18 3
36 — do.		24 13 6	12 6 9
37 — do.		25 10 6	12 15 3
38 — do.		26 7 0	13 3 6
39 — do.		27 4 0	13 12 0
40 to 44 do.		28 17 6	14 8 9
45 — 49 do.		31 13 6	15 16 9
50 — 54 do.		34 10 0	17 5 0
55 — 59 do.		37 6 0	18 13 0
60 — 64 do.		39 13 6	19 17 9
65 — 69 do.		42 0 6	21 0 3
70 — 74 do.		44 5 0	22 2 6
75 — 79 do.		46 10 0	23 5 0
80 — 84 do.		48 15 0	24 7 6
85 — 89 do.		51 0 0	25 10 0
90 — 94 do.		53 4 6	26 12 3
95 — 99 do.		55 9 6	27 14 9
100 — 109 do.		58 17 0	29 8 6
110 — 119 do.		63 6 6	31 13 3
120 — 129 do.		67 16 6	33 18 3
130 — 139 do.		72 6 0	36 3 0
140 — 149 do.		76 16 0	38 8 0
150 — 159 do.		81 5 6	40 12 9
160 — 169 do.		85 15 6	42 17 9
170 — 179 do.		90 5 0	45 2 6
180 and upwards do.		93 2 6	46 11 3
And for every such dwelling-house which shall contain more than 180 windows or lights, for every window or light exceeding the number of 180		0 3 0	0 1 6

*Schedule (A.)
Duties on Win-
dows.*

SCHEDULE (A.) ON WINDOWS—(Continued.)

RULES, in schedule (A.) 48 Geo. III. c. 55, for charging Windows or Lights. (a)

How chargeable.	"First.—The said several duties to be charged annually in respect of the windows or lights in every dwelling-house, with the household and other offices herein enumerated."
Skylights, &c.	"Second.—All skylights, and all windows or lights, however constructed, in staircases, garrets, cellars, passages, and all other parts of dwelling-houses, to what use or purpose soever applied, and whether such windows or lights shall be in the exterior or interior parts of such dwelling-houses, to be charged to the said duties."
Lights in offices.	"Third.—Every window or light in any kitchen, cellar, scullery, buttery, pantry, larder, washhouse, laundry, bakehouse, brewhouse, and lodging-room, belonging to or occupied with any dwelling-house, whether the same shall be within or contiguous to or disjoined from the body of such dwelling-house, shall be charged to the said duties."
Chargeable annually, from fifth April.	"Fourth.—The said duties to be charged yearly upon the occupier or occupiers of the houses, cottages, or tenements, in respect whereof the said duties shall be charged, and to be in force for one whole year from the fifth day of April in the year in which the same shall be charged, to be levied on such occupier or occupiers, or on his, her, or their respective executors or administrators, except as hereinafter provided."
Change of occupation.	"Fifth.—Where any change in the occupation of any house, cottage, or tenement, shall take place after the assessment shall be made, then and in such case the duties hereby directed to be charged on the occupier or occupiers of houses, cottages, or tenements, for one year, shall be levied upon and paid by the occupier or occupiers, landlord or landlords, owner or owners for the time being, or on both or all of them, according to their times of possession thereof, without any new assessment, notwithstanding such change in the occupation of such house, cottage, or tenement, for the year that such house shall have been assessed: provided, that, where a tenant of any house, cottage, or tenement, shall quit the same, on the determination of the lease or demise thereof, after an assessment shall be made, and shall have given notice thereof to the assessor for the place, the duty thereon shall be discharged by the commissioners for executing this act for the remainder of that year, in case it shall appear to the said commissioners at the end of such year, that such house, cottage, or tenement, shall have continued wholly unoccupied for and during the remainder of such year."
Houses let in apartments. See XIII.)	"Sixth.—Where any dwelling-house is or shall be let in different apartments, tenements, lodgings, or landings, and shall be inhabited by two or more persons or families, the same shall nevertheless be charged as if such house was inhabited by one person or family only; and the landlord or owner, landlords or owners of such house, apartments or tenements, are or shall be deemed and taken to be occupier or occupiers of such house, and shall be charged with the said duties: provided, that where the landlord shall not reside within the limits of the collector, or the same shall remain unpaid by such landlord for the space of twenty days after the same is due, the duties so charged may be levied on the occupier, or occupiers respectively, and such payment shall be deducted and allowed out of the next payment on account of rent."
Houses left in charge of servants.	"Seventh.—Every house, whereof the keeping is or shall be committed or left to the care or charge of any person or servant, shall be subject to the like duties as if it were inhabited by the owner or by a tenant; and, if such person or servant shall not pay rates to the church and poor, the said duties shall be paid by the respective owners or tenants of the said house."
Chambers in inns of court.	"Eighth.—Every distinct chamber or apartment in any of the inns of court, or of chancery, or in any college or hall, in either of the Universities of Oxford or Cambridge, or any public hospital, being severally in the tenure or occupation of any person or persons, shall be subject to the same duties as if the same was an entire house, which duties shall be paid by the occupier thereof respectively; provided, that every such chamber or apartment, which shall not contain more than seven windows or lights, shall be charged at the rate of 3s. 6d. for every such window or light."

(a) See, further, the enactments in the 43 Geo. III. c. 161, *ante*, 756 to 784, and as to distraining for arrear of duties, *ante*, 710.

III. Of the Assessed Taxes themselves.

799

SCHEDULE (A.) ON WINDOWS—(Continued.)

*Schedule (A.)
Duties on Win-
dows.*

"Ninth.—All dwelling-rooms in any hall or office whatever, belonging to any person or persons, or to any bodies politic or corporate, or to any company, that are or may be lawfully charged with the payment of any other taxes or parish rates, shall be subject to the duties hereby made payable, and shall be respectively charged as dwelling-houses; and the person or persons, bodies politic or corporate, or company, to whom the same shall belong, shall be charged as the occupier or occupiers thereof."

Rooms in public
halls.

"Tenth.—When a partition or division between two or more windows or lights, fixed in one frame, is or shall be the breadth or space of twelve inches, the window or light on each side of such partition or division shall be charged as a distinct window or light."

Partitions be-
tween windows.

"Eleventh.—Every window extending so far as to give light into more rooms, landings, or stories than one, shall be reckoned and charged as so many separate windows as there are rooms, landings, or stories enlightened thereby."

Windows lighting
two places.

"Twelfth.—Every window or light, including the frame, partitions, and divisions thereof, which by due admeasurement of the whole space on the aperture of the wall of the house or building, on the outside of such window or light, shall exceed in height twelve feet, or in breadth four feet nine inches, not being less than three feet six inches in height, shall be reckoned and charged as two windows or lights, except such windows or lights as shall have been made of greater dimensions at any time prior to the fifth day of April, one thousand seven hundred and eighty-five; except also the windows or lights in such parts of dwelling-houses as are used for shops, workshops and warehouses, and except the windows or lights in the public room of any house licensed to sell wine, ale, or other liquors by retail, which shall be used for the entertainment of guests; and the windows or lights in farm-houses especially exempted from the duties in the following schedule, marked (B.) or in any dwelling-house not chargeable to the duties mentioned in the said schedule."

Dimensions of
windows.



"Thirteenth.—Where any dwelling-house shall be divided into different tenements, being distinct properties, every such tenement shall be subject to the same duties as if the same were an entire house, which duties shall be paid by the occupiers thereof respectively; provided, that every such tenement in England, Wales, or Berwick-upon-Tweed, which shall not contain more than seven windows or lights, shall be charged at the rate of 3s. 6d. for every such window or light; and every such tenement in Scotland which shall not contain more than seven windows or lights, shall be charged at the rate of 3s. for every such window or light."

Distinct tene-
ments. (See IV.)

EXEMPTIONS from the said Duties, in Schedule (A.) of 48 Geo. III, c. 55.

"Case I.—Any house belonging to his majesty, or any of the royal family; and every public office for which the duties heretofore payable have been paid by his majesty, or out of the public revenue."

Royal family,
public offices.

"Case II.—Any hospital, charity-school, or house provided for the reception and relief of poor persons, except such apartments therein as are or may be occupied by the officers or servants thereof, which shall severally be assessed, and be subject to the said duties as entire dwelling-houses."

Hospitals, &c.

"Case III.—The windows in any room of a dwelling-house, licensed according to law as a chapel for the purposes of divine worship, and used for no other purpose whatsoever:

Chapels.

"Provided that every such hospital, charity-school, houses for the reception and relief of poor persons, or room licensed as a chapel as aforesaid, shall be brought into charge by the assessor or assessors, or in their default, by the surveyor or inspector, and shall be stated on the certificate of assessments as such; and on due proof of the fact before the commissioners by the assessors, it shall be lawful for the commissioners for executing the said act to discharge such hospital, charity-school, house for the reception and relief of poor persons, and room licensed as a chapel, from the said duties, or such part thereof as is hereby intended to be exempted, in like manner as they are authorized to discharge the assessment on poor persons by this act, but not otherwise."

Proviso for
charging hos-
pitals, chapels,
&c.

"Case IV.—The windows or lights, in any dairy or cheese room belonging to and occupied with any dwelling-house, chargeable with the said duties, although the same shall be part thereof, which shall be used by such occupier or occupiers for the purpose of keeping butter or cheese, being their own produce, for sale or private use; provided that the windows or lights in such dairies or cheese-rooms

Dairies.

*Schedule (A.)
Duties on Win-
dows.*

SCHEDULE (A.) ON WINDOWS—(Continued.)

shall be made with splines or wooden laths, or iron bars, or wires, and wholly without glass, and that the occupiers of the dwelling-houses to which such dairies and cheese-rooms belong shall paint or cause to be painted on the outer door thereof, or on the outside of the windows thereof, or one of them, in large Roman letters, the words, "dairy" or "cheese-room," as the case may require, and shall keep, and from time to time restore such words so painted distinctly legible, during all such time as such exemption shall be claimed; and provided, that such dairies or cheese-rooms shall not be at any time or times used to dwell in or to sleep in by any person or persons, but shall be wholly kept and used for the several purposes hereinbefore mentioned; and provided, also, that an assessment of all such windows or lights shall be duly made, and the fact be truly returned in the manner directed by this act, in other cases of exemption from the said duties, so that the number of windows so to be exempted may be ascertained, and the exemption be allowed by the commissioners for executing this act."

The 57 Geo. III. c. 25, *ante*, 786, and 6 Geo. IV. c. 7, s. 4, *ante*, 793, creates exemptions for *two* glazed windows in a dairy in a farm-house.

Repeal of Duties on Windows in Shops, &c., and certain Exemptions.

By the 4 Geo. IV. c. 11, s. 1, after reciting "that, by 48 Geo. 3, c. 55, certain duties were granted upon houses, windows, and lights, as set forth in the schedule to that act, marked (A.), and that it was expedient finally to determine certain of the said duties on windows and lights then payable, in respect of shops or warehouses being part of dwelling-houses occupied by persons in trade," it is enacted, "that so much of the said duties on windows or lights in *shops or warehouses*, being parts of dwelling-houses chargeable by the said first-mentioned act, in respect of any number not exceeding *three such windows*, or lights in *any shop or warehouse in the front* or fronts, and on the ground or basement story of every dwelling-house occupied by any person or persons in trade, who shall expose to sale or sell any goods, wares, or merchandizes in any such shop or warehouse; and all assessments thereon for and in respect of any year commencing from and after the respective days aforesaid, shall severally cease and determine." See, *ante*, 787.

The eighth section enables the commissioners to exempt from reduced duties persons having three children, and wholly maintained by them, who occupy houses having not more than *six* windows; but see the note (a), 790.

Provisions in the 43 Geo. III. c. 161, respecting the Assessment on Windows, and the Exemptions from Assessment.

See the act, sects. 10, &c., *ante*, 759 to 785, and cases thereon.

SCHEDULE (B.) ON INHABITED HOUSES. (a)

[48 Geo. III. c. 55, *ante*, 785 ; 6 Geo. IV. c. 7, *ante*, 791.]

"A SCHEDULE of the Duties made payable on all INHABITED DWELLING-HOUSES throughout Great Britain, according to the Value thereof, and of the Offices and Lands to be charged therewith.

*Schedule (B.)
Duties on Inhabited Houses.*

"For every such inhabited house which, with the household and other offices, yards, and gardens, therewith occupied and charged, are or shall be worth the rent hereinafter mentioned by the year, there shall be charged the yearly sums following: *videlicet*,

*Value in
the Pound.*

5 <i>l.</i> (b) and under 20 <i>l.</i> rent, by the year	£	s.	d.
20 <i>l.</i> and under 40 <i>l.</i> rent, by the year	£	0	1 6
40 <i>l.</i> rent by the year, and upwards	£	0	2 3

Rent.			At per Pound.	Total per Year.	Rent.			At per Pound.	Total per Year.
£.	s.	d.	s.	d.	£.	s.	d.	s.	d.
10	0	0	1	6	56	0	0	2	10
11	0	0	1	6	57	0	0	2	10
12	0	0	1	6	58	0	0	2	10
13	0	0	1	6	59	0	0	2	10
14	0	0	1	6	60	0	0	2	10
15	0	0	1	6	61	0	0	2	10
16	0	0	1	6	62	0	0	2	10
17	0	0	1	6	63	0	0	2	10
18	0	0	1	6	64	0	0	2	10
19	0	0	1	6	65	0	0	2	10
20	0	0	2	3	66	0	0	2	10
21	0	0	2	3	67	0	0	2	10
22	0	0	2	3	68	0	0	2	10
23	0	0	2	3	69	0	0	2	10
24	0	0	2	3	70	0	0	2	10
25	0	0	2	3	71	0	0	2	10
26	0	0	2	3	72	0	0	2	10
27	0	0	2	3	73	0	0	2	10
28	0	0	2	3	74	0	0	2	10
29	0	0	2	3	75	0	0	2	10
30	0	0	2	3	76	0	0	2	10
31	0	0	2	3	77	0	0	2	10
32	0	0	2	3	78	0	0	2	10
33	0	0	2	3	79	0	0	2	10
34	0	0	2	3	80	0	0	2	10
35	0	0	2	3	81	0	0	2	10
36	0	0	2	3	82	0	0	2	10
37	0	0	2	3	83	0	0	2	10
38	0	0	2	3	84	0	0	2	10
39	0	0	2	3	85	0	0	2	10
40	0	0	2	10	86	0	0	2	10
41	0	0	2	10	87	0	0	2	10
42	0	0	2	10	88	0	0	2	10
43	0	0	2	10	89	0	0	2	10
44	0	0	2	10	90	0	0	2	10
45	0	0	2	10	91	0	0	2	10
46	0	0	2	10	92	0	0	2	10
47	0	0	2	10	93	0	0	2	10
48	0	0	2	10	94	0	0	2	10
49	0	0	2	10	95	0	0	2	10
50	0	0	2	10	96	0	0	2	10
51	0	0	2	10	97	0	0	2	10
52	0	0	2	10	98	0	0	2	10
53	0	0	2	10	99	0	0	2	10
54	0	0	2	10	100	0	0	2	10
55	0	0	2	10					

And so on at the rate of 2*s.* 10*d.* in the pound for a rent of any amount.

(a) See division of the subject, *ante*, 793 ; and see the enactments and decisions on 43 Geo. III. c. 161, *ante*, 756-84. (b) The 6 Geo. IV. c. 7, s. 1, repeals the duty on inhabited houses under the value of 10*l.* per annum, *ante*, 791.

**SCHEDULE (B.)
DUTIES ON
INHABITED
HOUSES.**

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

" RULES on the 48 Gec. III. c. 55, Schedule (B.), for Charging the said last-mentioned Duties. (a)

How chargeable.

" First.—The said last-mentioned duties to be charged annually on the occupier or occupiers for the time being of every such dwelling-house, being of the annual rent of 5*l.* or upwards, (a) at the respective rates before mentioned, and to be levied on him, her, or them, or on his, her, or their respective executors or administrators, and in like manner, in case of a change in the occupation thereof, as is before directed in respect of the duties on windows or lights, and in addition to the duties contained in Schedule (A.)."

Outhouses.

" Second.—Every coachhouse, stable, brewhouse, washhouse, laundry, wood-house, bakehouse, dairy, and all other offices, and all yards, courts, and cartilages, and gardens and pleasure-grounds, belonging to and occupied with any dwelling-house, shall, in charging the said duties, be valued together with such dwelling-house; provided no more than one acre of such gardens and pleasure-grounds shall, in any case, be so valued."

Shops and warehouses attached.

" Third.—All shops and warehouses which are attached to the dwelling-house, or have any communication therewith, shall, in charging the said duties, be valued together with the dwelling-house and the household and other offices aforesaid thereunto belonging (except such warehouses and buildings upon or near adjoining to wharfs which are occupied by persons who carry on the business of wharfingers, and who have dwelling-houses upon the said wharfs for the residence of themselves or servants employed upon the said wharfs.)"

Warehouses detached.

" And also, except such warehouses as are distinct and separate buildings, and not parts or parcels of such dwelling-houses, or the shops attached thereto, but employed solely for the purpose of lodging goods, wares, and merchandise, or for carrying on some manufacture (notwithstanding the same may adjoin to or have communication with the dwelling-house or shop.)"

Chambers in inns of court, &c.

" Fourth.—Every chamber or apartment in any of the inns of court, or of chambers, or in any college or hall in any of the universities of Great Britain, being severally in the tenure or occupation of any person or persons, shall be charged thereto as an entire house, and on the respective occupiers thereof."

Public halls, &c.

" Fifth.—Every hall or office whatever belonging to any person or persons, or to any body or bodies politic or corporate, or to any company, that are or may be lawfully charged with the payment of any other taxes or parish rates, shall be subject to the duties hereby made payable as inhabited houses; and the person or persons, bodies politic or corporate, or company, to whom the same shall belong, shall be charged as the occupier or occupiers thereof."

**Houses let in apartments.
(See XIV.)**

" Sixth.—Where any house shall be let in different stories, tenements, lodgings, or landings, and shall be inhabited by two or more persons or families, the same shall nevertheless be subject to, and shall in like manner be charged to, the said duties, as if such house or tenement was inhabited by one person or family only, and the landlord or owner shall be deemed the occupier of such dwelling-house, and shall be charged to the said duties; provided that, where the landlord shall not reside within the limits of the collector, or the same shall remain unpaid by such landlord for the space of twenty days after the same is due, the duties so charged may be levied on the occupier or occupiers respectively; and such payments shall be deducted and allowed out of the next payment on account of rent."

Value, according to poor's rate.

" Seventh.—No dwelling-house or other such premises as aforesaid, shall be estimated or rated at any less annual value than the rent or value at which the same premises stand charged in the last rate made on or before the time of making the assessment for the relief of the poor in the same parish or place."

If poor's rate on full value.

" Eighth.—In case the said poor-rate shall have been made throughout by a pound-rate on the full annual value of all the dwelling-houses in the same parish or place, then such assessment shall be made according to the said rate; and the assessors appointed or to be appointed for the said duties shall, in making their assessments on different dwelling-houses in the same parish or place, in all such cases as aforesaid, observe the same rule of proportion between the assessment of the duties granted by this act thereon, as shall have been observed in making such poor-rate as to all the premises aforesaid rated in such poor-rate."

If on proportionate value.

" Ninth.—In case the said poor-rate shall have been made on any proportionate

(a) By the 6 Geo. IV. c. 7, s. 1, repealed on all houses under the value of 10*l.* per annum, ante, 791.

(b) See note (b), preceding page.

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

SCHEDULE (B.) DUTIES ON INHABITED HOUSES.

part of such value, then such assessors shall assess the same at the same sums respectively as they would have been assessed at by virtue of this act, if the same had been respectively estimated in such poor-rate at the full value thereof respectively."

"Tenth.—In case the poor-rate in any parish or place shall not be made on the full annual value of the different dwelling-houses charged, nor according to any proportionate part of such annual value, but, nevertheless, the said dwelling-houses shall be rated in a due proportion to each other, it shall be lawful for the assessors, by all lawful ways and means authorized by this act, to inquire into, and, to the best of their information and judgment, to ascertain the actual rent of the several houses and other the premises aforesaid, in different occupations within their limits, which shall have been let within the period of three years preceding the time for making the assessment, or so many of them as they shall be able to ascertain the rent of, and shall make an assessment on the actual rent on such of the said houses and premises therewith occupied, which shall appear to them to have been so let at the just and full value thereof, and shall afterwards proceed to assess the several other houses with the premises aforesaid occupied therewith in sums respectively bearing the same proportion, as far as the same can be computed, to the amount of such first assessment as the sums charged on the said poor-rate on such other premises respectively bear to the sum charged in the said poor-rate on the said house and premises so first assessed: provided always, that the aforesaid rule shall extend only to such houses and premises chargeable under this act as shall be rated in such poor-rate, distinctly and unmixed with other property not chargeable to the duties hereby granted. [otherwise.

"Eleventh.—In case any house, with the premises aforesaid therewith occupied, shall not be rated in such poor-rate, or shall be rated therein together with other property not chargeable to the duties hereby granted, or there shall be no poor-rate in the parish or place where such house is situate, and in every case where the rules before mentioned are not applicable, the said assessors shall make their assessment from the best information they can obtain of the annual value thereof, which, in all cases, shall be the actual amount of the rent at which the said houses and premises aforesaid respectively are let, or if not let, the rent which they respectively are worth to be let by the year. If not rated.

"Twelfth.—In case any house, with the premises aforesaid, shall, on occasion of the assessor or assessors having pursued the proportions observed in the poor-rate on which such assessment was made, have been assessed at a sum exceeding the just rate on the annual value thereof, it shall be lawful for the commissioners to abate and deduct from such assessment so much as in their judgment will reduce the same to a just rate on such annual value, but in no case to a less annual value than the same stands rated at in the poor-rate. Abatement of rate.

"Thirteenth.—In case any house, with the premises aforesaid, shall, on occasion of the assessor or assessors having pursued the proportions observed in such poor-rate, have been assessed at a sum less than the actual rent at which the same shall be let, or, if not let, at less than the rent at which the same might be let, it shall be lawful for the commissioners to enlarge and increase such assessment to such sum as a like rent would amount unto. Increase of rate.

"Fourteenth.—Where any dwelling-house shall be divided into different tenements, being distinct properties, every such tenement shall be subject to the same duties as if the same was an entire house, which duty shall be paid by the occupiers thereof respectively. Distinct tenements. (See VI.)

"EXEMPTIONS.

"Case I.—Any house belonging to his majesty, or any of the royal family; and every public office for which the duties heretofore payable have been paid by his majesty, or out of the public revenue. Royal family. Public offices.

"Case II.—Every dwelling-house, being a farm-house, occupied by a tenant, and *bonâ fide* used for the purposes of husbandry only. Farm-houses.

"Case III.—Every dwelling-house, being a farm-house, occupied by the owner thereof, and *bonâ fide* used for the purposes of husbandry only, which, together with the household and other offices aforesaid, shall be valued under this act at 10*l.* per annum, or any less sum. Farm-house of owner.

"Case IV.—Any hospital, charity-school, or house provided for the reception or relief of poor persons. Hospitals, &c.

"Case V.—Every house whereof the keeping is or shall be committed or left Houses in charge of servants.

SCHEDULE (B.)
DUTIES ON
INHABITED
HOUSES.

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

"RULES on the 48 Geo. III. c. 55, Schedule (B.), for Charging the said last-mentioned Duties. (a)

How chargeable.

"First.—The said last-mentioned duties to be charged annually on the occupier or occupiers for the time being of every such dwelling-house, being of the annual rent of 5*l.* or upwards, (a) at the respective rates before mentioned, and to be levied on him, her, or them, or on his, her, or their respective executors or administrators, and in like manner, in case of a change in the occupation thereof, as is before directed in respect of the duties on windows or lights, and in addition to the duties contained in Schedule (A.)"

Outhouses.

"Second.—Every coachhouse, stable, brewhouse, washhouse, laundry, wood-house, bakehouse, dairy, and all other offices, and all yards, courts, and curtilages, and gardens and pleasure-grounds, belonging to and occupied with any dwelling-house, shall, in charging the said duties, be valued together with such dwelling-house; provided no more than one acre of such gardens and pleasure-grounds shall, in any case, be so valued."

Shops and warehouses attached.

"Third.—All shops and warehouses which are attached to the dwelling-house, or have any communication therewith, shall, in charging the said duties, be valued together with the dwelling-house and the household and other offices aforesaid thereunto belonging (except such warehouses and buildings upon or near adjoining to wharfs which are occupied by persons who carry on the business of wharfingers, and who have dwelling-houses upon the said wharfs for the residence of themselves or servants employed upon the said wharfs.)"

Warehouses detached.

"And also, except such warehouses as are distinct and separate buildings, and not parts or parcels of such dwelling-houses, or the shops attached thereto, but employed solely for the purpose of lodging goods, wares, and merchandise, or for carrying on some manufacture (notwithstanding the same may adjoin to or have communication with the dwelling-house or shop.)"

Chambers in inns of court, &c.

"Fourth.—Every chamber or apartment in any of the inns of court, or of chambers, or in any college or hall in any of the universities of Great Britain, being severally in the tenure or occupation of any person or persons, shall be charged thereto as an entire house, and on the respective occupiers thereof."

Public halls, &c.

"Fifth.—Every hall or office whatever belonging to any person or persons, or to any body or bodies politic or corporate, or to any company, that are or may be lawfully charged with the payment of any other taxes or parish rates, shall be subject to the duties hereby made payable as inhabited houses; and the person or persons, bodies politic or corporate, or company, to whom the same shall belong, shall be charged as the occupier or occupiers thereof."

Houses let in apartments. (See XIV.)

"Sixth.—Where any house shall be let in different stories, tenements, lodgings, or landings, and shall be inhabited by two or more persons or families, the same shall nevertheless be subject to, and shall in like manner be charged to, the said duties, as if such house or tenement was inhabited by one person or family only, and the landlord or owner shall be deemed the occupier of such dwelling-house, and shall be charged to the said duties; provided that, where the landlord shall not reside within the limits of the collector, or the same shall remain unpaid by such landlord for the space of twenty days after the same is due, the duties so charged may be levied on the occupier or occupiers respectively; and such payments shall be deducted and allowed out of the next payment on account of rent."

Value, according to poor's rate.

"Seventh.—No dwelling-house or other such premises as aforesaid, shall be estimated or rated at any less annual value than the rent or value at which the same premises stand charged in the last rate made on or before the time of making the assessment for the relief of the poor in the same parish or place."

If poor's rate on full value.

"Eighth.—In case the said poor-rate shall have been made throughout by a pound-rate on the full annual value of all the dwelling-houses in the same parish or place, then such assessment shall be made according to the said rate; and the assessors appointed or to be appointed for the said duties shall, in making their assessments on different dwelling-houses in the same parish or place, in all such cases as aforesaid, observe the same rule of proportion between the assessment of the duties granted by this act thereon, as shall have been observed in making such poor-rate as to all the premises aforesaid rated in such poor-rate."

If on proportionate value.

"Ninth.—In case the said poor-rate shall have been made on any proportionate

(a) By the 6 Geo. IV. c. 7, s. 1, repealed on all houses under the value of 10*l.* per annum, ante, 791.

(b) See note (b), preceding page.

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

SCHEDULE (B.) DUTIES ON INHABITED HOUSES.

part of such value, then such assessors shall assess the same at the same sums respectively as they would have been assessed at by virtue of this act, if the same had been respectively estimated in such poor-rate at the full value thereof respectively."

"Tenth.—In case the poor-rate in any parish or place shall not be made on the full annual value of the different dwelling-houses charged, nor according to any proportionate part of such annual value, but, nevertheless, the said dwelling-houses shall be rated in a due proportion to each other, it shall be lawful for the assessors, by all lawful ways and means authorized by this act, to inquire into, and, to the best of their information and judgment, to ascertain the actual rent of the several houses and other the premises aforesaid, in different occupations within their limits, which shall have been let within the period of three years preceding the time for making the assessment, or so many of them as they shall be able to ascertain the rent of, and shall make an assessment on the actual rent on such of the said houses and premises therewith occupied, which shall appear to them to have been so let at the just and full value thereof, and shall afterwards proceed to assess the several other houses with the premises aforesaid occupied therewith in sums respectively bearing the same proportion, as far as the same can be computed, to the amount of such first assessment as the sums charged on the said poor-rate on such other premises respectively bear to the sum charged in the said poor-rate on the said house and premises so first assessed: provided always, that the aforesaid rule shall extend only to such houses and premises chargeable under this act as shall be rated in such poor-rate, distinctly and unmixed with other property not chargeable to the duties hereby granted."

If otherwise.

"Eleventh.—In case any house, with the premises aforesaid therewith occupied, shall not be rated in such poor-rate, or shall be rated therein together with other property not chargeable to the duties hereby granted, or there shall be no poor-rate in the parish or place where such house is situate, and in every case where the rules before mentioned are not applicable, the said assessors shall make their assessment from the best information they can obtain of the annual value thereof, which, in all cases, shall be the actual amount of the rent at which the said houses and premises aforesaid respectively are let, or if not let, the rent which they respectively are worth to be let by the year."

If not rated.

"Twelfth.—In case any house, with the premises aforesaid, shall, on occasion of the assessor or assessors having pursued the proportions observed in the poor-rate on which such assessment was made, have been assessed at a sum exceeding the just rate on the annual value thereof, it shall be lawful for the commissioners to abate and deduct from such assessment so much as in their judgment will reduce the same to a just rate on such annual value, but in no case to a less annual value than the same stands rated at in the poor-rate."

Abatement of rate.

"Thirteenth.—In case any house, with the premises aforesaid, shall, on occasion of the assessor or assessors having pursued the proportions observed in such poor-rate, have been assessed at a sum less than the actual rent at which the same shall be let, or, if not let, at less than the rent at which the same might be let, it shall be lawful for the commissioners to enlarge and increase such assessment to such sum as a like rent would amount unto."

Increase of rate.

"Fourteenth.—Where any dwelling-house shall be divided into different tenements, being distinct properties, every such tenement shall be subject to the same duties as if the same was an entire house, which duty shall be paid by the occupiers thereof respectively."

Distinct tenements. (See VI.)

"EXEMPTIONS.

"Case I.—Any house belonging to his majesty, or any of the royal family; and every public office for which the duties heretofore payable have been paid by his majesty, or out of the public revenue."

Royal family.
Public offices.

"Case II.—Every dwelling-house, being a farm-house, occupied by a tenant, and *bona fide* used for the purposes of husbandry only."

Farm-houses.

"Case III.—Every dwelling-house, being a farm-house, occupied by the owner thereof, and *bona fide* used for the purposes of husbandry only, which, together with the household and other offices aforesaid, shall be valued under this act at 10*l.* per annum, or any less sum."

Farm-house of owner.

"Case IV.—Any hospital, charity-school, or house provided for the reception or relief of poor persons."

Hospitals, &c.

"Case V.—Every house whereof the keeping is or shall be committed or left

Houses in charge of servants.

SCHEDULE (B.)
DUTIES ON
INHABITED
HOUSES.

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

to the care or charge of any person or servant, who doth not pay rates to the church and poor, and who resides therein for the purpose only of taking care thereof; provided that an assessment shall be duly made in every such case, and the fact be truly returned in the manner directed by this act in other cases of exemption from the said duties, and the exemption be allowed by the commissioners for executing this act."

Tenements which have been occupied as dwelling-houses shall not be charged to duties under recited act, when employed solely for the purposes of trade, or as warehouses, shops, &c.

The 57 Geo. III. c. 25, s. 1, after reciting the 48 Geo. III. c. 55, Schedule (B.), &c., enacts, "that from and after the fifth day of April, 1817, on due proof made in the manner herein directed, to the satisfaction of the respective commissioners acting in the execution of the said recited act, that any person or any number of persons in partnership together respectively occupy a tenement or building, or part of a tenement or building, which shall have previously been occupied for the purpose of residence wholly, as a house for the purposes of trade only, or as a warehouse for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house, no person inhabiting, dwelling, or abiding therein, except in the day-time only, for the purpose of such trade, such person or each of such persons in partnership respectively residing in a separate and distinct dwelling-house, or part of a dwelling-house, charged to the duties under the said act, it shall be lawful for the said commissioners, according to the provisions of this act, to discharge the assessment made for that year in respect of such tenement or building which shall be so used for the purposes of trade, or so employed as a warehouse for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house; anything in the said act to the contrary notwithstanding."

Exemption by 57 Geo. 3, c. 25, to persons in trade, from house and window duties;

The 5 Geo. IV. c. 44, s. 4, reciting that, by the 57 Geo. III. c. 25, provision is made for granting exemptions to persons in trade from the duties on houses, windows, and lights, and on inhabited houses, in respect of houses, tenements, or buildings, or parts of tenements or buildings, used solely by such persons for the purposes of trade, such persons respectively residing in a separate and distinct dwelling-house, or part of a dwelling-house, charged to the said duties, as in the said act described: and whereas it is expedient to extend the said exemptions to the cases herein mentioned: enacts, "that upon all assessments to be made for any year commencing from and after the fifth day of April, 1824, the provisions in the said acts contained, for granting exemptions from the said duties to persons in trade, in respect of houses, tenements, or buildings, in the said act described, shall and may be extended and applied by the respective commissioners and officers acting in the execution of the said act and this act, on due proof, to all and every person, or any number of persons in partnership together, for and in respect of any house, tenement, or building, or part of a tenement or building, in the said act described, which shall be used by such person or persons as offices or counting-houses, for the purposes of exercising or carrying on any profession, vocation, business, or calling, by which such person or persons shall seek a livelihood or profit, no person inhabiting, dwelling, or abiding therein, except in the day-time only, for the purpose of such profession, vocation, business, or calling, such person or each such persons in partnership respectively residing in a distinct and separate dwelling-house, or part of the dwelling-house charged to the said duties; provided nevertheless, that the exemption herein authorized shall not extend to any chamber or apartment in any of the inns of court or of Chancery, or to any college or hall in either of the Universities of Oxford or Cambridge, now chargeable with any of the said duties; and the said exemptions hereby authorized shall be claimed and allowed on due proof, and the assessments thereupon discharged by the same rules, and in like manner and form, as are allowed by the said act to persons in trade; and all and every the provisions in the said act contained shall be observed, followed, and practised, by the respective commissioners, inspectors, surveyors, assessors, and other persons in the said act described, in granting exemptions and discharging assessments under the provisions of this act, to all intents as if such provisions formed part

extended to persons using houses under like circumstances as offices or counting-houses in their professions or other callings.

Exemption not to be extended to chambers in inns of court or colleges in universities.

SCHEDULE (B.), INHABITED HOUSES—(Continued.)

SCHEDULE (B.) DUTIES ON INHABITED HOUSES.

of the said act passed in the fifty-seventh year aforesaid, anything herein contained to the contrary notwithstanding."

The 57 Geo. III. c. 25, s. 2, provides, "that all such tenements or buildings, whether employed wholly for the purposes of trade or as warehouses for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house, may be brought into assessment as dwelling-houses in the manner directed by the said act; and every person intending to be relieved from the assessment made in respect of his or her tenement or building used for the purposes of trade, or as a warehouse for the sole purpose of lodging goods, wares, or merchandize therein, or as a shop or counting-house, by virtue of this act, shall in such case give notice thereof to the assessor or surveyor of or for the parish or place where such last-mentioned tenement or building shall be situate, and at the same time deliver a declaration in writing, stating the parish or place where the dwelling-house or dwelling-houses, or part of a dwelling-house used as a residence of him, her, or them, or his, her, or their family or families, are respectively situate; and every assessor or surveyor to whom such notice and declaration shall be delivered, and every surveyor of the district acting for such parish or place, whether he shall have received such notice and declaration or not, who shall have information of such claim being made or to be made, shall, upon request, from time to time and at all times in the day-time, be admitted to inspect and survey the tenement or building described to be so employed, as well internally as externally, and shall inquire and examine into the uses and purposes to which the same is or has been employed; and if, after any such claim made, or before or after allowance thereof, it shall be discovered that the same tenement or building hath been employed for any other use than for the purposes of trade, or as a warehouse for lodging goods, wares, or merchandize, or as a shop or counting-house, or that any person doth inhabit or dwell therein, except as aforesaid, then on due proof thereof before the said commissioners, they shall and are hereby required to assess and charge the said tenement or building as a dwelling-house to the duties granted by the said act, notwithstanding such claim, or anything hereinbefore contained to the contrary: provided always, that nothing hereinbefore contained shall be construed to impeach or affect any exemption from the said duties expressly contained in the said recited act."

But such tenements may be brought into assessment. Persons claiming relief to give notice to assessor, &c.

Tenements to be inspected by assessor, &c.

If such tenement used for any other purpose, then commissioners to assess accordingly

Sect. 4. "That the occupier of any mill or place of manufacture or warehouse, not being part or parcel of any dwelling-house, nor attached or adjoining to any dwelling-house, nor having any internal communication therewith, may, by the license in writing of the commissioners of the district, signed by them, or any three or more of them assembled at any meeting, after due notice given by the occupier of such mill or place of manufacture, appoint any one of his or her servants named in such license to watch and guard the said mill, or place of manufacture or warehouse, in the night-time, and that the abiding of such licensed servant therein, for the purpose of watching and guarding the same, shall not render the occupier thereof liable to any of the duties granted by the said recited act."

Mills or places of manufacture, &c. not attached to a dwelling-house not liable to duty, though a servant licensed to guard the same abide therein.

Enactment in 43 Geo. 3, c. 161, respecting the Assessment and Exemptions of poor Persons from Assessment, for the Duties in the two preceding Schedules.

See the 43 Geo. III. c. 161, s. 10 to 13 inclusive, *ante*, 759.

Sect. 17. "And where any house, cottage, or tenement, or any windows therein, or any hospital, charity-school, poor-house, or licensed chapel, ought to be exempted from the said duties by virtue of any of the rules in the schedules (A.) and (B.), the occupier or occupiers, and the persons conducting or managing such hospital, &c., shall give notice thereof to the assessor, which" &c. See rest of sect., *ante*, 762.

SCHEDULE (C.) ON MALE SERVANTS.

[48 Geo. III. c. 55; 52 Geo. III. c. 93; 4 Geo. IV. c. 11; and 6 Geo. IV. c. 7.]

Schedule (C.),
duties on ser-
vants.

Duties payable annually for MALE SERVANTS.

No. 1.

NUMBER OF SERVANTS.			Duty for each Servant under 48 Geo. 3, c. 55.	Additional Duty under 52 Geo. 3, c. 93.	Moiety now payable under 4 Geo. 4, c. 11. (e)
			£. s. d.	£. s. d.	£. s. d.
For	1 such Servant, each	.	2 4 0	0 4 0	1 4 0
	2 do. do.	.	2 16 0	0 6 0	1 11 0
	3 do. do.	.	3 7 0	0 9 0	1 18 0
	4 do. do.	.	3 18 0	0 9 0	2 3 6
	5 do. do.	.	4 9 0	0 9 0	2 9 0
	6 do. do.	.	4 14 0	0 9 0	2 11 6
	7 do. do.	.	4 16 0	0 9 0	2 12 6
	8 do. do.	.	5 3 0	0 9 0	2 16 0
	9 do. do.	.	5 12 0	0 10 0	3 1 0
	10 do. do.	.	6 3 0	0 10 0	3 6 6
	11 do. and upwards (each servant)	.	7 1 0	0 12 0	3 16 6
For every such servant retained or employed by any male person, never having been married, over and above the above-men- tioned duties, the further sum of			1 14 0	0 6 0	1 0 0

Extra duties pay-
able by bache-
lors.

(a) The 4 Geo. IV. c. 11, s. 2, takes off a moiety of the prior duties, *ante*, p. 787.

"RULES, in 52 Geo. III. c. 93, Schedule (C.), No. 1, for Charging the said Duties and the additional Duties. (b)

To what servants
extended.

"I.—The said duties to be paid by the master or mistress of such servants respectively, and to extend to and be payable for every male servant retained or employed in any of the following capacities: that is to say, maître d'hôtel, house steward, master of the horse, groom of the chamber, valet de chambre, butler, under butler, clerk of the kitchen, confectioner, cook, house porter, footman, running footman, coachman, groom, postillion, stable boy, or helper in the stables of the master or mistress, gardener, park-keeper, gamekeeper, huntsman, whipper-in, or by whatever name or names male servants really acting in any of the said capacities shall be called, or whether such male servants shall have been retained or employed in one or more of the said capacities (except where other duties are imposed by this act on male persons occasionally employed in one or more of the said capacities), and to every such servant let to hire with any carriage or horses for one year, or any longer period, and shall be charged upon the greatest number of such servants which the same person shall have kept at one time in the course of the preceding year, in any of the capacities before mentioned."

Servants in
taverns.

"II.—The said duties shall extend to all servants in any of the capacities before mentioned, employed in taverns, coffee-houses, inns, alehouses, or any other houses licensed to sell wine, ale, or other liquors by retail, and in eating or victualling houses, and in hotels or lodging-houses, of whatever description, although not licensed, except hostlers and helpers in the stables of such licensed persons, and drivers employed by them to drive their carriages with horses let out to hire, and except waiters."

Gardeners.

"III.—The said duties on gardeners shall extend to every gardener who shall have contracted for the keeping of any garden or gardens wherein the constant labour of a person shall be necessary, or where a person shall have been constantly employed therein, to be paid by the person or persons for whose use and

(a) The 4 Geo. IV. c. 11, s. 2, *ante*, p. 787, takes off half the duty before payable.

(b) The above schedule of rules in 52

Geo. III. c. 93, renders it unnecessary to print the schedule of rules in 48 Geo. III. c. 55.

SCHEDULE (C.), SERVANTS—(Continued.)

SCHEDULE (C.)
ON SERVANTS.

in whose garden such gardener or persons shall have been employed, except as hereinafter mentioned."

"IV.—The said duties shall extend to all apprentices retained or employed in any of the capacities aforesaid, save and except such apprentices as shall have been imposed upon any master or mistress under and by virtue of the powers given to magistrates and parish officers by any act or acts of Parliament, so as the number of such apprentices for whom this exemption shall be claimed by the same person shall not exceed two; being generally employed in the affairs of husbandry or trade, and occasionally only in any of the capacities herein enumerated, and not wearing livery."

Apprentices.

"V.—The said duties on gamekeepers shall extend to every person retained or employed to kill or preserve game for the use of any other person or persons, whether lawfully appointed to kill or preserve game or not, to be paid by the person or persons retaining or employing such persons respectively, for the uses aforesaid; except gamekeepers, being the servants of other qualified persons duly returned by and charged to the said duties as servants of such other persons."

Gamekeepers.

"VI.—The said duties shall extend to every person who shall be employed in the capacity of a coachman, postillion, groom, or helper in the stables, although such person shall have been retained for the purposes of husbandry, or any manufacture or trade, where the master or mistress of such person shall be chargeable with duty for any carriage (other than a taxed cart), or for two or more horses chargeable with the duty on horses kept for the purpose of riding or drawing carriages, as herein mentioned."

Coachmen, &c.

"VII.—The said duties shall extend to every person who shall be employed as a groom, stable-boy, or helper in the stables of the master or mistress, to take care of any horse, mare, or gelding, the property of such master or mistress, kept for the purpose of racing or running for any plate, prize, sum of money, or other thing, or in training for any of the said purposes."

Grooms, &c.

By the 59 Geo. III. c. 118, s. 5, an under gamekeeper is not assessed as an additional servant, but at 10s. per annum, *ante*, 787.

EXEMPTION provided by 1 Wil. 4, c. 35, s. 3.

This section enacts, that after the fifth day of April, 1830, exemptions shall be allowed from the duties in respect of male servants and on all persons respectively described in Schedule (C.), of the said acts, No. 1 and No. 3, in the cases herein mentioned, *videlicet*, in respect of any male servant or male person who shall be the son of the employer, and who shall be under the age of 21. See *post*, 812.

No. 2. (a.)

A SCHEDULE of the Duties payable annually for MALE SERVANTS and other Persons retained or employed in the several Capacities herein mentioned. (a)

For every under gardener or person employed to work in any garden, under any person chargeable to the duties mentioned in Schedule (C.), No. 1; for every gardener employed in any garden wherein the constant labour of a person shall not be necessary, and for every gardener who shall have contracted for the keeping of any such garden, wherein the constant labour of a person shall not be necessary, the sum of 0 4 0	Moiety of Aggregate Duty.	Under gardeners.
In addition to the duty of 16s. granted by the acts passed in the 48th and 50th years of the reign of his present majesty	0 10 0	By whom paid.
To be paid by each person in whose garden such person shall be employed, and charged upon the greatest number of such servants which the same person shall have at one time employed in the same capacity, in the course of the preceding year.		

(a) These were enacted by the 48 Geo. III. c. 55, 50 Geo. III., and 52 Geo. III. c. 93; but were afterwards repealed by the 4 Geo. IV. c. 11, s. 1, *ante*, 787.

SCHEDULE (C.)
ON SERVANTS.

SCHEDULE (C.), SERVANTS—(Continued.)

"Exemptions from the Duties as set forth in Schedule (C.), No. 1 and 2.

Day labourers.

"Any person employed by the day or week to work as a day-labourer, at the usual rate of wages for day-labourers in agriculture, in any garden belonging to a dwelling-house, being a farm house, and exempted as such from the duties mentioned in Schedule (B.), of the act of 48 Geo. III. c. 55, or in any garden belonging to a dwelling-house not chargeable to the duties mentioned in the said schedule, such garden not requiring the constant labour of one person therein."

No. 3.

A SCHEDULE of the Duties payable annually for every MALE PERSON retained or employed in the several Capacities herein mentioned, and not chargeable to the Duties in Schedule (C.), No. 1.

		Money of Aggregate Duty.
Travellers.	For every male person employed in the capacity of, or as a rider or traveller, where the same employer shall keep or employ one such male person only, the sum of	0 12 0
	In addition to the duty of 2l. 8s. granted by the act passed in the 48th year of the reign of his present majesty	1 10 0
	And where the same employer shall keep or employ more than one such male person, for each the sum of	2 10 0
	In addition to the duty of 3l. 10s. granted by the said act	
Clerks, &c.	For every male person employed in the capacity of or as clerk, book-keeper, or office-keeper, where the same employer shall keep or employ one such male person only, the sum of	0 16 0
	In addition to the duty of 1l. 4s. granted by the said act	
	And where the same employer shall keep or employ more than one such male person, for each the sum of	0 12 0
	In addition to the duty of 2l. 8s. granted by the said act	
Stewards, &c.	For every male person employed in the capacity of, or as a steward, bailiff, overseer, or manager, or clerk under a steward, bailiff, overseer, or manager, the sum of	2 0 0
Shopmen.	For every male person employed by any person in trade as a shopman, for the purpose of exposing to sale, or selling goods, wares, or merchandize, in such shop or warehouse, whether by wholesale or retail, and every male person employed as a warehouseman, porter, or cellarman in such shop or warehouse, the sum of	0 16 0
	In addition to the duty of 1l. 4s. granted by the said act	
	And for every male person so employed, where the duty granted by the said act shall not be chargeable, the annual sum of	1 0 0
Waiters.	For every male person employed as a waiter to wait on guests in any tavern, coffee-house, inn, ale-house, eating or victualling house, or in any hotel or lodging-house, except occasional waiters, the sum of	0 15 0
	In addition to the duty of 2l. 5s. granted by the said act	
	And for every male person so employed, where the duty granted by the said act shall not be chargeable, the sum of	1 10 0
Occasional waiters. (a)	And for every male person so employed as an occasional waiter therein for the period of six calendar months in any year, the sum of	1 1 0
	And if so employed for a lesser period than six calendar months in any year, the sum of	0 10 0
	And for every male person, not being a servant, employed as an occasional waiter in any private house, not less than six times within the year, the sum of	0 10 0

(a) See what duties in this schedule were repealed by 4 Geo. IV. c. 11, *ante*, 787; and see 6 Geo. IV. c. 7, *ante*, 791.

(b) See the repealing clause, 6 Geo. IV. c. 7, s. 1, *ante*, 791.

SCHEDULE (C.), SERVANTS—(Continued.)

SCHEDULE (C.)
ON SERVANTS.

	Molety of Aggregate Duty.	Stablekeepers' men. (a)
For every male person employed by any stable-keeper, for or in expectation of profit, to take care of any horse, mare, or gelding, kept for the purpose of racing or running for any plate, prize, sum of money, or other thing, or any horse, mare, or gelding in training for any of the said purposes, except servants chargeable as grooms or helpers in stables by Schedule (C.), No. 1, the sum of	1 0 0	
In addition to the duty of 1l. 4s. granted by the said act		
And for every male person so employed, where the duty granted by the said act shall not be chargeable, the sum of	1 0 0	Servants in husbandry. (a)
For every male person retained for the purposes of husbandry, manufacture, or trade, wherein the employer shall seek a livelihood, and at any time employed in any domestic employment, in any of the capacities enumerated in Schedule (C.) No. 1, and where the employer shall not be chargeable to the duties in the said schedule, or to any other of the duties in this schedule, in respect of such male person, the sum of	0 5 0	
In addition to the duty of 6s. granted by the said act		
And for every male person so retained and employed, where the duty granted by the said act shall not be chargeable, the sum of	0 5 0	
For every male person retained for the purposes of husbandry, manufacture, or trade, and at any time employed in the capacity of a groom, stable-boy, or helper in the stable, where the master or mistress shall be chargeable for one horse to the duty contained in Schedule (E.) No. 1, or to the duty on a taxed cart, and not on any other carriage chargeable with duty by this act, and in respect of which such male person shall not be chargeable to the duties in Schedule (C.) No. 1, or to any other of the duties in this schedule, the sum of	0 5 0	Servants in husbandry employed as grooms. (a)
In addition to the duty of 6s. granted by the said act		
And for every male person so retained and employed, where the duty granted by the said act shall not be chargeable, the sum of	0 5 0	
For every male person employed in any of the capacities enumerated in Schedule (C.) No. 1, and not being a servant to his employer or employers, where such employer or employers shall be chargeable to any of the duties contained in Schedule (C.) No. 1; or for any carriage to the duties contained in Schedule (D.) No. 1 or No. 2, or for more than one horse to the duties contained in Schedule (E.) No. 1, the sum of	1 4 0	Servants.
And where such employer or employers shall not be so chargeable to the said last-mentioned duties, the sum of	0 10 0	

"The said duties to be paid by the employer or employers of such male persons respectively, and to extend to every body politic or corporate, whether aggregate or sole, and to every society, fraternity, or partnership, although not corporate, employing such male persons, and to every trade, manufacture, or concern whereby the employer shall seek a profit or advantage."

"EXEMPTIONS to Schedule (C.), No. 3.

"Any apprentice bound for the term of seven years, during the term of his apprenticeship and service with his original master or his assignee of the whole unexpired term, where no premium or other consideration or value shall have been taken or contracted for with such apprentice."

The 59 Geo. III. c. 118, contains certain exemptions from duties on persons employed as *shopmen*, grooms, stable-boys, or helpers in *stables*, *ante*, p. 786.

By the 59 Geo. III. c. 118, s. 3, more than four persons employed as travellers on foot for sale of goods were exempt, *ante*, p. 786.

By the 4 Geo. IV. c. 11, s. 5, it is enacted, that the former exemptions to shopmen under fifteen years shall be extended to shopmen under eighteen years of age, *ante*, p. 789.

(b) See the repealing clause in 4 Geo. IV. c. 11, s. 1, *ante*, 787.

SCHEDULE (C.)
ON SERVANTS.

SCHEDULE (C.), SERVANTS—(Continued.)

The 5 Geo. IV. c. 44, s. 6, removes doubts in the employment of *porters*, and of persons acting *under clerks and managers in mines or adventures*, and enacts, "that for and in respect of any assessment to be made for any year commencing from and after the fifth day of April, 1824, any male person hired by the employer or employers in the said acts described, by the year or by the week, or otherwise, shall not be deemed and taken to be a porter chargeable with the said duties, for or by reason of his employment in the loading, unloading, stowage, or removal of goods, wares, or merchandize, from, to, or upon any horse, cart, waggon, or other carriage, in the receipt or delivery of such goods, wares, or merchandize at the shop, warehouse, or place of deposit, unless such person shall also be employed in the drawing or taking of samples of goods, wares, or merchandize exhibited for the purposes of sale at such shop or warehouse, or elsewhere; nor shall any person wholly employed in any mine, adventure, or concern, under the superintendence and authority of one or more manager or managers, or one or more clerk or clerks, in such mine, adventure, or concern (where the person or persons liable to the said duties by the said acts shall be assessed for the duty for one overseer or manager at the least, and also for one clerk at the least), be deemed and taken to be an overseer or manager, or a clerk under an overseer or manager chargeable with duty, by reason of the employment of any such person under such manager or clerk in the overlooking and checking of labourers in the performance of the work and labour allotted to them in any such mine, adventure, or concern, and in accounting for the same to any such manager or clerk; anything in the said acts to the contrary notwithstanding."

See further exemptions by 1 Wil. 4, c. 35, s. 3, *post*, 812.

No. 4.

A SCHEDULE of the Duties payable on SERVANTS let to Hire.

Coachmen, &c.,
let to hire.

	For every coachman, groom, postillion, or helper, kept for the purpose of being let to hire for any period of time less than one year, and in such manner that the Stamp-Office duty payable by law on horses let to hire shall not be payable by any postmaster, innkeeper, or other person, duly licensed to let post-horses by the commissioners for managing the duties on stamped vellum, parchment, and paper, or by any coachmaker or maker of such carriages, or other person, the annual sum of	Molety of Aggregate Duty.
	0 6 0	1 5 0
Stage coachmen.	In addition to the duty of 2l. 4s. granted by the said act And for every coachman kept for the purpose of driving any public stage coach or carriage, for the purpose of conveying passengers for hire to and from different places, and for every person employed as a guard to such stage-coach or carriage, the annual sum of	1 5 0
	The said last-mentioned duties to be paid by the employer or employers of such persons, respectively.	

By whom paid.

The said duties to be paid by the person or persons keeping such public stage-coaches or carriages, or letting to hire such coachmen, grooms, postillions, or helpers; provided, that if the person or persons hiring any such coachman, groom, postillion, or helper, shall not make a return thereof according to the directions of the said acts in force, as aforesaid, then and in every such case the progressive duty made payable by the said act of 48 Geo. III. c. 55, and this act, as set forth in the respective schedules of the said acts, marked (C.), No. 1, shall be chargeable in respect of every such servant on the person or persons hiring such servant, and making such default as aforesaid, according to the number of servants employed by him, her, or them, in the manner directed by the said act.

EXEMPTIONS from the last-mentioned Duties, as set forth in Schedule (C.).

No. 1 and 2.

Servants in
husbandry.

"I.—The said duties not to be payable by any person who shall have retained or employed *bona fide* any male servant solely for the purposes of husbandry.

(a) And see 4 Geo. IV. c. 11, s. 1, *ante*, 787.

SCHEDULE (C.), SERVANTS—(*Continued.*)

SCHEDULE (C.)
ON SERVANTS.

bandry or manufacture, (a) or of any trade or calling by which the master or mistress of such servant shall earn a livelihood or profit, and who hath not at any time or occasion, or in any manner, or for any purpose, been employed in any of the capacities enumerated in Schedules (C.), No. 1 and 2, nor in any of the capacities enumerated in Schedule (C.), No. 3 and 4, whereon any duty is specifically made payable."

"II.—The said duties not to be payable by any college or hall within either of the universities of Oxford or Cambridge, or the several colleges of Westminster, Eton, or Winchester, for any butler, manciple, cook, gardener, or porter; nor by any of the royal family, for any servant acting in any of the capacities aforesaid."

College, &c.
servants.

Royal family's
servants.

"III.—The said duties not to be payable by any of the royal hospitals of Christ, St. Bartholomew, Bridewell, Bethlehem, St. Thomas, in the city of London, and borough of Southwark, or Guy's, or the Foundling Hospital."

Hospital servants.

"IV.—The said duties not to be payable by any officer hereinafter described, such officer retaining or employing as a servant one male person only; that is to say, by any officer serving in any regiment of horse or dragoons under the rank, or not receiving the pay of a field officer for one servant, being actually a soldier in the regiment, troop, or squadron, to which such officer shall belong:

Officers'
servants.

"Nor by any officer serving in any regiment of artillery, infantry, royal marines, royal garrison battalions, or corps of engineers, for one servant, being actually a soldier in the regiment or company to which such officer shall belong:

"Nor by any officer in his majesty's navy, under the rank of a master and commander, in actual employ, for one servant borne upon the books of the ship to which such officer shall belong:

"Nor by any officer on half-pay from his majesty's navy, army, or marines, who shall have been disabled by loss of a limb or wound received in his majesty's service for one male servant retained by him:

"V.—The said duties not to be payable for any persons retained or employed in the above capacities, in the room of others who may be called out under any act which has been passed, or which shall be passed, for training and exercising a military force within these kingdoms, during the time of such training and exercising."

Servants to
supply those
under military
training.

Provisions in the 43 Geo. III. c. 161, relative to the Assessment of Servants, according to the Duties in the preceding Schedules.

See the enactments on the 43 Geo. III. c. 161, ss. 27 and 39, *ante*, p. 765.

With respect to livery-stable keepers, &c., letting servants to hire, see the regulations thereon, *post*, at the conclusion of Schedule (F.)

SCHEDULE (D.)
ON CARRIAGES.

SCHEDULE (D.)

" A SCHEDULE of the Duties payable on all CARRIAGES of any of the Descriptions to be mentioned (in 52 Geo. III. c. 53).

No. 1.

Carriages with four wheels.

NUMBER OF CARRIAGES.		By the 48 Geo. 3, c. 55	By the 52 Geo. 3, c. 53	Moiety Aggre- gate Duty now payable. (a)
For Carriages with Four Wheels.		£. s. d.	£. s. d.	£. s. d.
For 1 such carriage, the annual sum of .		11 5 0	0 15 0	6 0 0
2 do. each .		12 7 0	0 13 0	6 10 0
3 do. do. .		13 10 0	0 10 0	7 0 0
4 do. do. .		14 0 0	1 0 0	7 10 0
5 do. do. .		14 12 0	1 3 0	7 17 6
6 do. do. .		15 3 0	1 5 0	8 4 0
7 do. do. .		15 14 0	1 6 0	8 10 0
8 do. do. .		16 5 0	1 7 0	8 16 0
9 do. and upwards .		16 16 0	1 7 0	9 1 6
And for every additional body kept, to be suc- cessively used on the same carriage or num- ber of wheels, the further annual sum of		5 12 0	0 14 0	3 3 0

(a) By the 4 Geo. IV. c. 11, sect. 2, one moiety of the duties on carriages shall cease.

Reduced duties shall not include any fraction of *1d., ante*, 787.

The 58 Geo. III. c. 17, which, instead of the duties payable on carriages with four wheels of less diameter than thirty inches and of a certain description, and not drawn by horses, &c., imposed certain other duties, was repealed by 6 Geo. IV. c. 7, s. 1.

Duties repealed in respect of son of employers under 21 years; and on carriages with less than four wheels of particular construction, drawn by ponies under 15 hands; and on farmer under 200*l.* a year for a husbandry horse occasionally rode.

By the 1 Wil. IV. c. 35, s. 3, after reciting, "and whereas it is also expedient to grant exemptions from the said duties of assessed taxes in particular cases, and to reduce certain of the said duties in respect of the articles herein-after mentioned;" it is enacted, "that for any year commencing from and after the fifth day of April, 1830, exemptions shall be allowed from the duties in respect of male servants and male persons respectively described in Schedule (C.) of the said acts, No. 1, and No. 3, in the cases herein mentioned; *videlicet*, in respect of any male servant or male person who shall be the son of the employer, and shall be under the age of twenty-one years; and in respect of any carriage in Schedule (D.) of the said acts described with less than four wheels, each of which shall be of less diameter than thirty inches, kept by any person for his or her own use, and not for hire, and which shall be drawn by any pony or mule not exceeding twelve hands in height; and also in respect of one horse, mare, or gelding *bond fide* kept and usually employed by any person for the purpose of husbandry on the farm or estate occupied by him or her, although occasionally used for the purpose of riding, where such farm shall be of less value than 200*l. per annum*, estimated as in cases of exemptions under Schedule (E.) of the acts now in force; provided that all such respective articles hereby exempted shall be duly returned and the exemptions claimed in the manner directed by the said acts in force relating to the said duties of assessed taxes."

Duties on carriages and horses reduced in certain cases.

Section 4. "That for and in lieu of the duties described in the said Schedule (D.) now in force and chargeable for carriages with four wheels, and for carriages with less than four wheels, and also the duties described in Schedule (E.) of the said acts now in force on horses, mares, geldings, or mules, next hereinafter described, there shall be charged, for any year commencing from and after the said fifth day of April, 1830, the several reduced duties following, and which reduced duties shall be assessed, raised, levied, collected, and accounted for in like manner as the duties now in force; that is to say,

SCHEDULE (D.), CARRIAGES—(Continued.)

SCHEDULE (D.)
ON CARRIAGES.

For every carriage with four wheels, each being of less diameter than thirty inches, where the same shall be drawn by a pony or ponies, mule or mules, exceeding twelve hands, and neither of them exceeding thirteen hands in height, the annual sum of	£. s. d.	Four-wheel carriages drawn by ponies;
And for every carriage with four wheels, described in the said Schedule (D.) No. 1, drawn by one horse, mare, gelding, or mule, and no more, the annual sum of	3 5 0	
And for every carriage with four wheels, described in the said Schedule (D.) No. 1, or No. 2, used by any common carrier principally and <i>bona fide</i> for and in the carriage of goods, wares, or merchandise, by which he or she shall seek a livelihood, where such carriage shall be occasionally only used in the conveyance of passengers for hire, and in such manner that the Stamp-Office duty, or any composition for the same, shall not be payable under any license by the commissioners of stamps, the annual sum of	4 10 0	or drawn by one horse;
And where such carriage last aforesaid shall have less than four wheels, the annual sum of	2 10 0	Carriages used by common carriers in conveyance of goods, and occasionally passengers, where the Stamp-Office duty is not payable;
And for each and every horse, mare, gelding, or mule used by any common carrier in drawing any such last-mentioned carriage respectively, there shall not by reason thereof be charged any other or higher duty than the duty payable by Schedule (F.) of the said acts.	1 5 0	and horses drawing such carriages.

Sect. 5 enacts, that the powers and provisions of former acts shall be executed by commissioners, &c. for the further term.

No. 2.

For Carriages with less than four wheels, of the descriptions mentioned in the acts passed in the 48th and 50th years of the reign of his present majesty:		Carriages chargeable with four wheels.
For every such carriage, except such carriages for or in respect of which other duties are herein imposed, the annual sum of	Moiety of Aggregate Duty.	
In addition to the duty of 5 <i>l.</i> 18 <i>s.</i> granted by the said acts of the 48th and 50th years of the reign of his present majesty	0 12 0	
And for every such carriage, where the duty granted by the said acts shall not be chargeable, the annual sum of	3 5 0	
And for every such carriage, drawn by two or more horses, mares, geldings, or mules, the annual sum of	3 5 0	
In addition to the duty of 8 <i>l.</i> 5 <i>s.</i> granted by the said acts	0 15 0	
And for every additional body kept, to be successively used on the same carriage or wheels, the further annual sum of	4 10 0	
In addition to the duty of 2 <i>l.</i> 16 <i>s.</i> granted by the said act	0 7 0	
	1 10 0	

“ RULES for Charging the said Duties in the two foregoing Schedules.

“ I.—The said duties to be respectively charged for every coach, berlin, landau, chariot, calash, chaise-marine, chaise, sociable, or caravan, with four wheels or more; and for every calash, chaise-marine, chaise, curricule, chair, or car, with less than four wheels, or any number thereof respectively; and for every other carriage with four wheels, or with less than four wheels, constructed for the like purposes, by whatever name or names the same shall be called or known, kept by any person or persons; and upon all such carriages hired by the year, or any longer period; and upon all such carriages kept to be let out to hire; and upon all such carriages at any time employed to carry passengers for hire (except such carriages for which other duties are hereinafter made payable); and which duties shall be respectively paid by the person or persons keeping such carriages, and shall be chargeable upon the body, or, if more than one, upon the bodies of such carriages respectively, according to the number thereof kept, and not in respect of the wheels thereof, or any other parts of such carriages to which the wheels shall be attached.”

SCHEDULE (D.)
ON CARRIAGES.

SCHEDULE (D.), CARRIAGES—(Continued.)

No. 3.

Carriages hired.	For carriages <i>hired</i> for any period of time less than one year, or kept to be let to hire, or to carry passengers :	Moiety of Aggregate Duty. (a.) 6 0 0
	For every carriage kept for the purpose of being let to hire, without horses to be used therewith, by any coachmaker, or maker of such carriages, where such carriage shall have four wheels, the annual sum of 0 15 0	
	In addition to the duty of 11l. 5s. granted by the said act passed in the 48th year of the reign of his present majesty	
	And where such carriage shall have less than four wheels, the like sums mentioned in Schedule (D.) No. 2 of this act.	
Chaises hired.	For every carriage kept for the purpose of being let to hire, with horses to be used therewith, by any postmaster, innkeeper, or other person duly licensed to let post-horses, by the commissioners for managing the duties on stamped vellum, parchment, and paper, and whereon the name or names, and place or places of abode, of the person or persons so licensed shall be marked or painted, according to the directions of the acts in that case made and provided, and in such manner that the Stamp-Office duty shall be payable by law in respect of the horses let therewith, and shall be duly accounted for by the delivery of a ticket, according to the directions of the said acts, where such carriage shall have four wheels, the annual sum of 1 1 0	5 5 0
	In addition to the duty of 9l. 9s. granted by the said act of the 48th year of the reign of his present majesty	
	And if such carriage shall have less than four wheels, the respective sums mentioned in Schedule (D.) No. 2, in addition to the duties respectively granted thereon, by the said acts passed in the 48th and 50th years of the reign of his present majesty.	
Stages.	For every coach, diligence, caravan, or chaise, with four wheels or more, or other carriage with four wheels or more, by whatever name the same shall be called or known, which shall be kept and employed as a <i>public stage-coach or carriage</i> , for the purpose of conveying passengers for hire to and from different places, and which shall be duly entered as such with the said commissioners of stamp duties, the like annual sum of 1 1 0	5 5 0
	In addition to the duty of 9l. 9s. granted by the said act passed in the 48th year of the reign of his present majesty	

The said last-mentioned duty to be paid by the person or persons keeping the same for the purposes aforesaid.

Proviso.

Provided, if a due return thereof shall not be made by the hirer or hirers according to the directions of the said acts relating to the said present duties, the progressive duty made payable by the said act of the 48th Geo. III. c. 55, and this act, as set forth in the respective schedules of the said acts marked (D.) No. 1, shall be chargeable in respect of every such carriage on the person or persons hiring the same, and making such default as aforesaid, subject to the provisions contained in the said acts concerning the same.

And if such carriage shall have less than four wheels, the respective sums made payable by the said act of the 48th Geo. III., and this act, as set forth in the respective schedules of the said acts marked (D.) No. 2, shall be chargeable and paid by the person or persons hiring the same and making such default, subject to the like provisions as aforesaid.

By the 50 Geo. III. c. 104, s. 1, certain other duties are granted, as in the schedule to the act annexed.

By sect. 2, duties are to be assessed under the regulations of former acts.

By sect. 3, the same commissioners and officers are to execute this act as are appointed under former acts.

By sect. 4, the makers of taxed carts are to return their names, and to keep accounts of carts sold.

(a) Only a moiety of the aggregate duties is now payable as above; 4 Geo. IV. c. 11, s. 2, *ante*, 787.

III. Of the Assessed Taxes themselves.—2ndly, Duties, &c.

815

SCHEDULE (D.), CARRIAGES—(Continued.)

SCHEDULE (D.)
ON CARRIAGES.

By the 4 Geo. IV. c. 11, the makers of taxed carts need not paint owner's name, &c. thereon, before delivery.

By the 50 Geo. III. c. 104, common stage-carts may be used in certain cases.

By sect. 7, on questions arising how carriages shall have been constructed, or of omission, commissioners to give notice to proprietors to produce the same before them, for their adjudging the duty.

No. 4.

For Taxed Carts. (a)

For every carriage with less than four wheels, to be drawn by one horse, mare, or gelding, and not otherwise, which shall be built and constructed wholly of wood and iron, without any covering other than a tilted covering, and without any lining, and with a fixed seat without slings or braces, and without any ornament whatever, other than paint of a dark colour, for the preservation of the wood or iron only, and which shall have the words "A Taxed Cart," and the owner's christian and surname, and place of abode, and also the name and place of abode of the maker thereof, and the full value thereof, or the actual price or consideration paid or given for the same, marked or painted on a black ground in white letters, or on a white ground in black letters, on the outside of the back pannel or back part of such carriage, in words at full length, and in Roman characters, each of the letters thereof being at least one inch in length, and of a breadth in proportion, and which shall be kept by any person or persons for his, her, or their own use, and not for hire, there shall be charged the respective duties hereinafter mentioned; that is to say,

For every carriage called a taxed cart, built and constructed according to the regulations before mentioned, and which shall be constructed without any spring or springs of any materials whatever, and the price of which (repairs excepted) shall not have exceeded, or the value thereof shall not at any time exceed, the sum of 15*l*. sterling, and which shall not at any time be used with a covered or stuffed seat or cushion fixed or not fixed thereto, or with a covered footboard or apron fixed or not fixed thereto, the annual sum of 0 2 6

Aggregate
Duty.

1 9 0

In addition to the duty of 1*l*. 6*s*. 6*d*. granted thereon by the act passed in the 50th year of the reign of his present majesty .

And for every carriage called a tax cart, built and constructed according to the said regulations, with a spring or springs of any materials whatever, except of iron, steel, or other metallic substance, or any composition of iron or steel, or other metallic substance, either wholly or in part, the original price of which carriage shall not have exceeded, or the value thereof shall not at any time exceed, the sum of 21*l*. sterling, or which shall be used with a covered or stuffed seat or cushion fixed or not fixed thereto, or with a covered footboard or apron thereto fixed or not fixed, the annual sum of 0 5 0

2 15 0

In addition to the duty of 2*l*. 10*s*. granted thereon by the act passed in the 50th year of the reign of his present majesty .

And for every carriage with less than four wheels, constructed with a spring or springs of iron, steel, or other metallic substance, or any composition of iron, steel, or other metallic substance, the respective sums mentioned in Schedule (D.) No. 2, in addition to the respective duties granted by the said acts passed in the 48th and 50th years of the reign of his present majesty, on carriages with less than four wheels.

All which duties in respect of carriages herein mentioned shall be charged upon and paid by the person or persons keeping the same respectively.

On Taxed Carts.
N. B. Repealed.
(a)

(a) Repealed by 4 Geo. IV. c. 11, s. 1, *ante*, 787; and 6 Geo. IV. c. 7, s. 1, *ante*, 791.

SCHEDULE (D.)
ON CARRIAGES.

SCHEDULE (D.), CARRIAGES—(Continued.)

Exception.

Save and except always all carriages built and constructed as aforesaid, belonging to any person or persons who are or shall be liable to be assessed to the before-mentioned duties in respect of a four-wheeled carriage, or who are or shall be liable to be assessed to the before-mentioned duties on male servants, contained in Schedule (C.) No. 1, in respect of two such male servants; which persons respectively shall be charged for such carriages, although built and constructed as aforesaid, at the rate prescribed in the respective schedules marked (D.) No. 2, of the said act of the 48th Geo. III. c. 53, and this act, for carriages with less than four wheels.

EXEMPTIONS from the several Duties in Schedule (D.), Nos. I., II., III., and IV.

Royal family.

"Case 1.—Any carriages belonging to his majesty, or any of the royal family."

Hackney-coaches.

"Case 2.—Any coach or coaches, licensed by the commissioners for hackney-coaches within the cities of London and Westminster, and the suburbs thereof, to be used as hackney-coaches there, and numbered according to law."

Coachmakers.
Carriages for sale.

"Case 3.—Any carriage kept by any coachmaker or maker of carriages, at any time after the 5th day of April, 1811, *bona fide* for the purpose of sale, or of being lent to any person whose carriage, being of the same denomination or description, shall be then making, mending, or repairing, by such coachmaker or maker of carriages, and during the time the same shall be necessarily under repair; provided such carriage shall not at any time, whilst in the possession of such coachmaker or maker of carriages, be employed for his or her own use, or let to hire, or otherwise lent than as aforesaid."

Carts.

"Case 4.—Any common stage cart which shall be kept, truly and without fraud, to be used wholly in the affairs of husbandry, or in the carriage of goods in the course of trade, and whereon the name and place of residence of the owner, and the words 'common stage cart' shall be legibly painted, although the owner, or his or her servant, shall or may, for the purpose of driving or conducting the same only, occasionally ride therein or thereon when laden, or when returning from any place to which, or when going to any place from which any load shall have been or shall be to be carried in such cart, in the course of husbandry or trade; or which shall be used for conveying the owners thereof or their families to or from any place of divine worship on Sunday or on Christmas Day, or on Good Friday, or on any day appointed for a public fast or thanksgiving; or for carrying persons going to or returning from the elections of members to serve in Parliament; in case such carriage shall not have been or be used for any other purpose of riding thereon or therein, save as aforesaid, or shall not have been or be let to hire, for any of such purposes of riding therein or thereon."

No. 5.

"A SCHEDULE of the Duties payable by Coachmakers, and Makers of other Carriages, chargeable with Duty by this Act, and on Carriages made, sold, or repaired, as herein mentioned." (a)

On coachmakers.
N.B. Repealed.
(a)

By every person who shall carry on the trade of a coachmaker or maker of any carriages chargeable with duty by this act, and by every dealer therein, the annual duty of	Aggregate Duty.
0 4 0	0 10 "
In addition to the duty of 6s. granted thereon by the act passed in the 48th year of the reign of his present majesty	
And where the duty granted by the said act shall not be chargeable thereon, the annual sum of	0 10 0
By every such coachmaker or maker of such other carriages as aforesaid, and by every dealer therein, for every such carriage with four wheels, which he or she shall make, build, construct for sale, or sell, the sum of	1 5 0
0 2 6	
In addition to the duty of 11. 2s. 6d. granted thereon by the said act	
And where the duty granted by the said act shall not be chargeable thereon, the sum of	1 5 "

(a) Repealed by 6 Geo. IV. c. 7, s. 1, ante, 791.

SCHEDULE (D.)—(Continued.)

And for every such carriage with less than four wheels, which he or she shall make, build, construct for sale, or sell, the sum of	0 1 5	0 12 6
In addition to the duty of 11s. 3d. granted thereon by the said act		
And where the duty granted thereon shall not be chargeable by the said act, the sum of		0 12 6
By every maker or makers of, or dealer in any carriage, built, constructed, and used, according to the regulations prescribed by this act for taxed carts, and of the values limited by the schedule of this act, the annual sum of	0 0 6	0 3 0
In addition to the duty of 2s. 6d. granted thereon by the said act		
And where the duty granted by the said act shall not be chargeable thereon, the annual sum of		0 3 0
By every such maker or makers of carriages as last aforesaid, for every such carriage which he, or she, or they shall make, build, or construct for sale, or sell, the sum of	0 0 6	0 3 0
In addition to the duty of 2s. 6d. granted thereon by the said act		
And where the duty granted by the said act shall not be chargeable thereon, the sum of		0 3 0

No. 6.

“A SCHEDULE of the Duties payable by Persons selling any CARRIAGES chargeable with Duty by this Act, by Auction or on Commission, to be charged in Addition to the Duties granted thereon by the Act passed in the 48th Year of the Reign of his present Majesty.” (a)

By every person who shall sell any carriage chargeable with duty by this act, by way of auction or on commission, for or in expectation of profit or reward, the duty of	0 4 0	On sales of carriages by auction. N.B. Repealed. (a)
For every such carriage with four wheels, the sum of	0 2 6	
And for every such carriage with two wheels, except taxed carts, the sum of	0 1 3	
And for every such taxed cart, the sum of	0 3 0	

Provisions by the 43 Geo. III. c. 161, respecting the Payment of the various Duties on Carriages.

By the 43 Geo. III. c. 161, s. 27, persons who have kept any carriages in the year ending on the days appointed for the commencement of the duties in 1804, are to return certain lists to the assessors. See the whole section, *ante*, p. 765.

Sect. 39 points out the proceedings where persons keeping carriages have no fixed residence. See the whole section, *ante*, p. 769.

Sect. 43 enacts, that coachmakers, &c., shall keep accounts of carriages built, or sold by auction or on commission. See the whole section, *ante*, p. 771.

Sect. 44 states that proper forms for such accounts are to be had at the Tax Office.

Sect. 45 directs assessors, &c., to whom coachmakers, or sellers of carriages, shall deliver accounts, to certify the same to commissioners.

(a) Repealed by the 6 Geo. IV. c. 7, s. 1, *ante*, 791.

SCHEDULE (E.)

[48 Geo. III. c. 55; 52 Geo. III. c. 93; and 1 Wil. IV. c. 35.]

No. 1.

Schedule (E.)
Duties on horses,
&c.

A SCHEDULE of the Duties payable annually for all HORSES, MARES, and GELDINGS, kept by any Person or Persons for the purpose of Riding, or for the purpose of Drawing any Carriage chargeable with Duty by Schedule (D)."

NUMBER THEREOF.		By the 48 Geo. 3, c. 55.	By the 52 Geo. 3, c. 93.	Moiety of Duty now payable. (s)
For 1 horse, mare, or gelding		2 13 6	0 4 0	1 8 9
2 ditto each horse, &c.		4 9 6	0 5 0	2 7 3
3 ditto ditto		4 18 6	0 6 0	2 12 3
4 ditto ditto		5 2 0	0 8 0	2 15 0
5 ditto ditto		5 3 0	0 8 6	2 15 9
6 ditto ditto		5 7 6	0 8 6	2 18 0
7 ditto ditto		5 10 0	0 9 6	2 19 9
8 ditto ditto		5 10 0	0 9 6	2 19 9
9 ditto ditto		5 12 0	0 9 6	3 0 9
10 ditto ditto		5 17 6	0 9 6	3 3 6
11 ditto ditto		5 17 6	0 9 6	3 3 6
12 ditto ditto		5 17 6	0 9 6	3 3 6
13 ditto ditto		5 18 0	0 9 6	3 3 9
14 ditto ditto		5 18 0	0 9 6	3 3 9
15 ditto ditto		5 18 0	0 9 6	3 3 9
16 ditto ditto		5 18 0	0 9 6	3 3 9
17 ditto ditto		5 18 6	0 9 6	3 4 0
18 ditto ditto		5 19 6	0 9 6	3 4 6
19 ditto ditto		6 0 0	0 10 0	3 5 0
20 and upwards		6 1 0	0 11 0	3 6 0

" RULES for Charging the said Duties.

" The said duties to be payable for every horse, mare, or gelding, kept for the purpose of riding, or of drawing any carriage for which any duty is payable by this act, or hired by the year, or any longer period, according to the greatest number of such horses, mares, or geldings, which the same person shall have kept at one time in the course of the preceding year, and to be paid by the person or persons keeping the same, except as after mentioned."

By the 4 Geo. IV. c. 11, s. 2, one moiety of the duties on horses shall cease, provided reduced duties shall not include any fraction of 1d.

The 59 Geo. III. c. 13, s. 2, enacts, that after the 5th of April, 1819, the progressive duties chargeable on horses used by butchers shall be discontinued: and that from the said 5th of April, 1812, there shall be paid for every horse, &c. which shall be used by any butcher or his servant in his trade, the annual sum of 2l. 17s. 6d.: provided, that where such butcher shall use two horses, &c. and no more, there shall be charged for such second horse, &c., the annual sum of 1l. 1s.

Sect. 3 enacts, that after the 5th of April, 1819, the duties chargeable on horses, &c., not exceeding thirteen hands high, used for the purposes of riding or drawing carriages, shall cease; and from the said 5th of April, 1819, there shall be paid for every horse, &c., not exceeding thirteen hands high, and used for the purposes of riding or drawing any carriage, the annual sum of 2l. 2s.: provided that nothing in this act shall take away the exemption to which any person keeping any such horse, &c., is by law entitled.

Sect. 5 enacts, that after the 5th of April, 1819, the duties payable on respect of one horse, &c., bona fide kept for and usually employed by any person upon the concerns of any farm with which he may be entrusted, shall cease.

(a) By the 4 Geo. IV. c. 11, s. 2, a moiety of the aggregate duty was repealed, ante, 788.

SCHEDULE (E).—(Continued.)

"EXEMPTIONS from the said Duties in Schedule (E.), No. 1.

"I.—Any person or persons who shall keep any horse, mare, or gelding, which shall be used truly and without fraud for the purpose of husbandry, or of drawing any carriage (except such carriages as are liable to any duty by this act), or carrying burthens in the course of the trade or occupation of the person or persons to whom such horse, mare, or gelding, shall belong, for one such horse, mare, or gelding, used for riding, on the occasions and in manner hereinafter mentioned: that is to say, when returning from any place to which any load or burthen shall have by such horse, mare, or gelding, been drawn or carried, or in going to any place from whence any load or burthen shall be to be brought back by such horse, mare, or gelding, or for the purpose of procuring medical assistance, or for the purpose of riding to or from market, or to or from any place of public worship, or to or from any election of members to serve in Parliament, or to or from any courts of justice, or to or from any meeting of the commissioners of taxes; provided such one horse, mare, or gelding, shall not on any occasion be used for any other purpose, save as aforesaid."

Husbandry horses, &c.

"II.—Any person occupying a farm as tenant at rack-rent, the rent of which shall be less than 70*l.* a-year, and making a livelihood solely thereby; or any person occupying any estate on any other tenure than as tenant at rack-rent solely, or such estate, together with a farm at rack-rent, the value of which, in the whole, shall be less than equivalent to a farm at the rack-rent of 70*l.* a-year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent), and making a livelihood solely by such his own estate, or by such estate and farm jointly, for one horse, mare, or gelding, *bona fide* kept and usually employed for the purpose of husbandry on his said estate or farm, although used occasionally for the purpose of riding."

Farms under 70*l.* a year at rack rent.

"III.—Any person occupying a farm as tenant at rack-rent, and making a livelihood solely thereby, or any person carrying on a trade, and making a livelihood solely thereby, or making a livelihood by such occupation and trade jointly; or any ecclesiastical person not possessed of an annual income of 100*l.* or upwards, whether arising from any ecclesiastical preferment or otherwise, for one horse, mare, or gelding, used only for the purpose of drawing any carriage with less than four wheels, liable to the duty hereby made payable on taxed carts."

Horse for taxed cart

"Provided always, that in every such case the said horse, mare, or gelding, shall be duly returned, and the exemption hereby granted shall be duly claimed in the manner and at the time directed by this act."

See, further, exemptions in favour of husbandry horses on certain farms, occasionally used for riding, and in relation to horses used by carmen, 1 Wil. IV. c. 35, s. 3 & 4, *ante*, 812.

No. 2.

"A SCHEDULE of the Duties payable on Horses let to Hire." (a)

"For every horse, mare, or gelding, kept for the purpose of riding, or of drawing any carriage liable to duty by this act, and let to hire in any manner so that the stamp-office duty payable by law on horses let to hire shall not be payable, the annual sum of	Moiety Duty. 1 8 9
In addition to the duty of 2 <i>l.</i> 13 <i>s.</i> 6 <i>d.</i> granted by the act passed in the 48th year of the reign of his present majesty.	0 4 0

"To be charged on the person or persons letting the same; provided, if a due return thereof shall not be made by the hirer or hirers, according to this act, the progressive duty made payable by the said act of the 48th Geo. III. c. 55, and this act, as set forth in the respective schedules of the said acts marked (E.), No. 1, shall be chargeable in respect of every such horse, mare, or gelding, on the person or persons hiring the same, and making such default as aforesaid, subject to the provisions contained in this act concerning the same."

(a) By the 4 Geo. IV. c. 11, s. 2, a moiety of the aggregate duty was repealed, *ante*, 788.

Taxes, Assessed.

SCHEDULE (E).—(Continued.)

No. 3.

"A SCHEDULE of the Duties payable on RACE-HORSES." (a)

<p>"For every horse, mare, or gelding, <i>bond fide</i> kept for the purpose of racing or running for any plate, prize, or sum of money, or other thing, or kept in training for any of the said purposes, whether in the stables of the proprietor or proprietors, or of any other person or persons, the annual sum of . . . 0 4 0</p> <p>In addition to the duty of 2<i>l.</i> 13<i>s.</i> 6<i>d.</i> granted by the act passed in the 48th year of the reign of his present majesty . . .</p>	<p>Aggregate Duty.</p> <p>1 8 9'</p>
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"The said duty to be charged on the person or persons having the custody, care, or management of such horses, mares, or geldings."

(a) By the 4 Geo. IV. c. 11, s. 2, a moiety of the aggregate duties was repealed, *ante*, 788.

SCHEDULE (F.) DUTIES ON ALL OTHER HORSES AND MULES. (a)

[48 Geo. 3, c. 55 ; 4 Geo. IV. c. 11, s. 2 ; and 1 Wil. IV. c. 35.]

No. 1.

"A SCHEDULE of the Duties payable for all other HORSES, MARES, or GELDINGS, not charged with any Duties according to the former Schedules of this Act, and on Mules (except such other Horses, Mares, Geldings, and Mules, for which other Duties are hereinafter made payable)."

"For every such other horse, mare, or gelding, being of the height of thirteen hands or more, of four inches to each hand, and for every mule, the annual sum of	0 7 0	Moiety Duty.
In addition to the duty of 14s. granted thereon by the said act passed in the 48th year of the reign of his present majesty . . .	0 10 6	
For every such other horse, mare, or gelding, being under the height of thirteen hands, of four inches to each hand, the annual sum of {	0 3 0	

The 59 Geo. III. c. 13, s. 7, enacts, "that nothing in the said recited act contained shall extend or be construed to extend, so as to preclude any occupier of land therein described from the benefit of the reduced assessment therein mentioned, by reason of his, her, or their lending or letting any horse or horses, mare or mares, gelding or geldings, in respect of which such reduced assessment shall be made, to be employed solely, *bona fide*, and for no other purpose whatsoever, except for the purposes of agriculture, or for the making or repairing of roads, or for drawing coal, wood, peat, or turf, for consumption as fuel, in any private house or houses, and not for the purposes of sale."

Sect. 8. "That any tenant coming into the occupation of his or her farm at or after Midsummer in any year, may appeal to the commissioners for executing this act, and on proof, to their satisfaction, that he or she shall not have kept or used any horses, mare, or geldings, by him or her used in the cultivation of the said farm, prior to his or her coming into the occupation of such farm, shall be entitled to be released and discharged from one moiety of the annual assessment payable in respect of the said horses, mares, or geldings."

By the 5 Geo. IV. c. 44, s. 5, it is enacted, "that upon all assessments to be made for any year or years commencing from and after the fifth day of April, 1824, any person occupying a farm of less value than 100*l.* per annum, and making a livelihood solely thereby, as owner or tenant, in the manner described in the said acts, and as applied to exemptions from the duties on horses, mares, or geldings kept by such occupiers and rode on the occasions therein mentioned, shall be exempt from the duty by the said acts granted in respect of any dog or dogs, not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier, which shall have been or shall be *bona fide* and wholly kept and used by such occupier, or by any person employed by him or her as a shepherd, on his or her said farm, in the care of sheep; provided, that every such exemption shall be claimed and allowed in like manner as is directed by the acts relating to the assessed taxes in other cases of exemption therein mentioned."

By the 56 Geo. III. c. 66, s. 7, it is enacted, "that, from and after the 5th day of April, 1816, during the period limited by this act, for all mares which have been or shall be wholly used for the purposes of husbandry, and which, at any time during the continuance of this act, shall be kept for breeding, there shall be charged the like duties, and no other, as would have been chargeable in respect of the said mares if they had continued to be used for the said purposes of husbandry."

By the 59 Geo. III. c. 13, s. 4, it is enacted, "that, from and after the said fifth day of April, 1819, all mares which shall be kept for the sole purpose of breeding, shall, whilst so kept, be wholly exempt from duty; and that all persons shall and may sell any horses which shall have been bred by them, or kept

Proviso for lending or letting of horses for the purposes of agriculture, &c.

On appeal, tenants coming into occupation at or after Midsummer, discharged from moiety of annual assessment.

Exemption for shepherd's dogs.

Duties on mares kept for breeding, and used only in husbandry.

Exemption of all breeding mares and horses bred by the sellers, &c.

(a) A moiety of the aggregate duties was repealed by the 4 Geo. IV. c. 11, s. 2, *ante*, 788.

SCHEDULE (F.)—(Continued.)

by them as farming stock upon lands in their occupation, for the space of three months at the least, without being liable to be assessed to the duties payable by horse-dealers; anything in any act or acts to the contrary notwithstanding."

- By the 1 & 2 Geo. IV. c. 20, intituled, "An Act to continue, until the fifth day of April, 1823, several Acts of His late majesty, for reducing the Duties payable on Horses used for the purposes therein mentioned," after reciting, that, "whereas by an act passed in the fifty-sixth year of the reign of his late majesty, King George the Third, intituled, 'An Act for reducing the Duties payable on Horses used for the purposes therein mentioned, for Two Years, and for repealing the Acts granting Allowances in respect of Children,' certain duties of assessed taxes were discontinued and suspended, and other duties substituted in lieu thereof, for the term of two years next after the fifth day of April, 1816; and which rates of substituted duties were continued by another act passed in the fifty-eighth year of the reign of his said late majesty, intituled, 'An Act to continue until the fifth day of April, 1819, and amend an act of the fifty-sixth year of his present majesty, for reducing the duties payable on horses used for the purposes therein mentioned,' and extended to other cases therein mentioned, for the term of one year, from the fifth day of April, 1818, until the fifth day of April, 1819; and the same rates of substituted duties were in like manner further continued for the term of two years, from the fifth day of April, 1819, by another act passed in the fifty-ninth year of the reign of his said late majesty, intituled, 'An Act to continue Two Acts of the Fifty-Sixth and Fifty-Eighth Years of His Present Majesty, for reducing the Duties payable on Horses used for the purposes therein mentioned, to the fifth day of April, 1821; and to reduce the Duties chargeable under certain Acts of the Forty-Eighth and Fifty-Second Years of His Present Majesty, in respect of certain Horses, Mares, Geldings, and Mules:' and whereas, it is expedient to continue the same substituted rates of duty in the said several acts mentioned, for a further time herein limited:" it is enacted, "that the several duties, and the regulations and provisions for assessing, charging, raising, levying, collecting, applying, and accounting for the same, in the said several acts mentioned, shall be, and the same are hereby severally continued, from the fifth day of April, 1821, until and upon the fifth day of April, 1823."

Duties further continued.

- By the 1 & 2 Geo. IV. c. 110, intituled, "An Act for Repealing the Duties imposed on Husbandry Horses, and to make perpetual several Acts for Reducing the Duties on certain Horses and Mules," after reciting, that, "whereas by an act passed in the forty-eighth year of the reign of his late majesty King George the Third, intituled, 'An Act for Repealing the Duties of Assessed Taxes, and granting New Duties in lieu thereof, and certain Additional Duties to be consolidated therewith; and also for Repealing the Stamp-Duties on Game-Certificates, and granting New Duties in lieu thereof, to be placed under the Management of the Commissioners for the Affairs of Taxes;' certain duties contained in the schedule marked (F.) of the said act were imposed and made payable on all horses, mares, and geldings, not charged with any duty, according to the schedule marked (E.) of the said act, and on mules in the cases thereafter mentioned, in lieu of certain duties thereby repealed: and whereas also, by another act, passed in the fifty-second year of the reign of his said late majesty, intituled, 'An Act for granting to his Majesty certain New and Additional Duties of Assessed Taxes, and for Consolidating the same with the former Duties of Assessed Taxes;' certain other and additional duties were imposed and made payable on horses, mares, or geldings, and mules, kept for the purposes of husbandry, which are severally contained in a schedule of the last-mentioned act, marked (F.) No. 2: and whereas, by another act passed in the fifty-sixth year of the reign of his said late majesty, intituled, 'An Act for Reducing the Duties payable on Horses used for the Purposes therein mentioned, for Two Years, and for Repealing the Acts granting Allowances in respect of Children,' the duties imposed and made payable by the acts before mentioned, on horses kept for the purpose of husbandry, were discontinued and suspended, so far as the same relates to persons occupying farms of the

SCHEDULE (F.)—(*Continued.*)

description and value therein mentioned, for the term of two years, from the fifth day of April, 1816, and other duties substituted on persons occupying farms as tenants at a rack rent less than 200*l.* per annum, and making a livelihood solely thereby, or any other estate therein described, of a value less than equivalent to a farm at the rack rent of 200*l.* per annum, and making a livelihood solely by such estate, or by such estate and farm jointly: and whereas the said reduced duties were, by certain acts passed in the fifty-eighth and fifty-ninth years of the reign of his said late majesty, further continued until and upon the fifth day of April, 1821: and whereas an act was passed on the sixth day of April, 1821, during the present session of Parliament, intituled, 'An Act to continue, until the Fifth Day of April, 1823, several Acts of his late Majesty, for Reducing the Duties payable on Horses used for the Purposes therein mentioned,' whereby the said substituted duties were continued until and upon the fifth day of April, 1823: and whereas divers petitions, praying, amongst other things, for the repeal of the duties granted by the said recited acts, were presented to the Commons in Parliament assembled in the present session; which petitions, whilst the said act last before recited was pending, were referred to the consideration of a select committee of the said Commons; and it was intended to make provision in the said recited act for allowing the amendment or repeal thereof in the present session of Parliament, for the purpose of enabling Parliament to give such relief to the said petitioners as to the wisdom of Parliament should seem expedient; which provision was, by mistake, omitted to be inserted therein: and whereas, since the passing of the said last-mentioned act, leave hath been given by the Commons, in Parliament assembled, to bring in a bill to repeal the said duties, so far as they relate to and are imposed on horses, mares, geldings, or mules, kept and used for the purposes of husbandry only; and it is expedient that the said duties shall be repealed from and after the fifth day of April, 1822, and that the said act of the present session for continuing the said duties, depending upon and connected with the continuance of the duties granted by the two first-mentioned acts, and hereby repealed, should also be repealed from the same period," it is enacted, "that from and after the fifth day of April, 1822, the said several duties on persons, in respect of horses, mares, geldings, or mules, kept and used solely for the purposes of husbandry in Great Britain, and all assessments thereon, shall severally cease and determine."

58 Gen. 3, c. 16.
59 Geo. 3, c. 13.

So much of recited acts as relate to duties on husbandry horses, &c. repealed.

Sect. 2. "That the assessments made or to be made on persons, in respect of horses, mares, geldings, or mules before described, for the year to end on the fifth day of April, 1822, in pursuance of the acts hereinbefore mentioned, shall be in force for the purpose of collecting, levying, receiving, or paying the duties thereon, for one quarter of the said year, and no longer; and it shall be lawful for the respective commissioners, or any two or more of them, at their meetings to be held in the several counties, ridings, divisions, shires, stewartries, cities, wards, towns, and places in Great Britain, after the end of the first quarter of the said year, and after payment of one-fourth part of the duty assessed on the said persons for the said year, to discharge the remainder of the said duties, so assessed on the said persons, and to make and return their schedules of discharge thereof at the time and in the manner directed by the said acts, for making and returning their certificates of charge on assessed taxes for that year; and the said respective commissioners, and all persons acting under them in the execution of the said acts, and all parishes and places, and the inhabitants thereof respectively, shall be indemnified and exonerated from all claims, in respect of the proportion of the said assessments hereby directed to be discharged."

Power to commissioners to discharge the assessment of the said acts now in progress for three quarters of a year, after payment of one quarter's duty on husbandry horses.

Sect. 3. "That it shall be lawful for the commissioners, or any two or more of them, at their meetings to be held in their several counties, ridings, divisions, stewartries, cities, wards, towns, and places in Great Britain, where any such contracts shall have been entered into, at any time after the payment of one fourth part of the duty chargeable for horses, mares, geldings, or mules used for the purpose of husbandry contained in any such contract, and thereby

Power to commissioners to discharge the duty on husbandry horses compounded for, for three quarters of the present year.

SCHEDULE (F.)—(Continued.)

Proviso for additional duty.

The duties on mules used in carrying stone, slate, &c. to cease as he is mentioned.

Reduced duties of the said acts on horses for riding, &c., granted for a limited period, made perpetual.

Proviso.

Act not to revive former repealed duties.

Provisions of the said acts to remain in force for levying arrears, &c.

made payable or becoming due within the third year of such contract, whether the amount of such composition shall be made payable quarterly or half-yearly, to discharge the residue of the duty on such horses, mares, geldings, or mules, contained in any such contract, but nevertheless without discharging any part of the additional duty thereon contracted, thereby to be paid, and to make and return their schedules of discharge thereof, in the manner hereinbefore directed to be done in cases of assessment, under and subject to the like immunities and indemnities as are before declared concerning assessments."

Sect. 4. "That from and after the fifth day of April, 1822, the duties on mules, imposed and made payable on mules by any of the said acts, shall cease and determine in respect of all and every the person or persons who shall seek his, her, or their livelihood by the carriage or conveyance of ore, slate, or stone, coal or culm, to or from the mine or pit, or by the carriage of lime, sea-sand, seaweed, or other manure; provided that such ore, slate, or stone, or coal or culm, sea-sand, sea-weed, or other manure, be loaded on the backs of such mule, and not otherwise."

Sect. 5. "And whereas by the said acts certain other duties of assessed taxes, in respect of horses, mares, or geldings, are reduced in certain cases therein described for a limited time, and it is expedient that the said reduced duties should be made perpetual; be it further enacted, that the reduced duties imposed by the said acts on horses, mares, or geldings, shall, in every case where the same are granted during the continuance of the said acts, be further continued and made perpetual by virtue of this act: provided always, that nothing in the said acts or in this act shall be construed to affect any exemption to which the use of such horses, mares, or geldings may entitle the person keeping the same, by any act passed prior to the granting of the said reduced duties."

Sect. 6. "That nothing herein contained shall be construed to revive any rate or duty imposed on horses, mares, or geldings, by any act or acts repealed by the said first-mentioned act of the forty-eighth year of the reign of his late majesty, or by any other act herein mentioned."

Sect. 7. "That nothing herein contained shall be construed to repeal any of the provisions of the said acts, relating to any of the assessed taxes or any compositions for the same, other than the duties or compositions on such husbandry horses, mares, geldings, or mules before mentioned; and that all the provisions of the said acts shall continue to be in force, for the purpose of making and completing the assessments and compositions on such husbandry horses, mares, geldings, or mules, for the present and all former years, and for the raising, levying, paying, and accounting for the sums assessed or compounded for, payable before or upon the period hereby fixed for discharging the assessments within the present year, as before directed; and also for the levying, collecting, and paying all and every the arrears of the said duties, which shall have been or shall be charged for any year prior to the passing of this act, or which shall have been or shall be charged for the present year, and not directed to be discharged by this act, and which shall be in arrear and unpaid; and for the summing, adjudging, and recovering any penalty or forfeiture which shall have been or may be incurred in respect of any such assessment, and for the bearing appeals against any such assessment."

No. 2.

"A SCHEDULE of the Duties payable on HORSES, MARES, or GELDINGS, kept for the purposes of Husbandry." (a)

For every horse, mare, or gelding, being of the height of thirteen hands or more, of four inches to each hand, <i>bond fide</i> kept and solely used for the purposes of husbandry (except as hereinafter mentioned), the annual sum of	0 3 6	Aggregate Duty.
In addition to the duty of 14s. granted thereon by the act passed in the 48th year of the reign of his present majesty.		0 17 6

(a) As to husbandry horses, see 4 Geo. IV. c. 11, s. 1, repealing act.

SCHEDULE (F.).—(Continued.)

Any person occupying a farm at rack-rent, the rent of which shall be less than 20 <i>l.</i> a year, and making a livelihood solely thereby, or occupying any estate on any other tenure than as tenant at rack-rent solely, or such other estate, together with a farm at rack-rent, the value of which in the whole shall be less than equivalent to a farm at the rack-rent of 20 <i>l.</i> a year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent), and making a livelihood solely by such his own estate, or by such estate and farm jointly, or principally thereby, and likewise a profit by any trade or employment, and keeping not more than two horses, mares, geldings, or mules, <i>bond fide</i> for the purpose of such occupation, shall be charged for each of such two horses, mares, geldings, or mules, the annual sum of	Aggregate Duty.
In addition to the duty of 2 <i>s.</i> 10 <i>d.</i> granted by the act passed in the 48th year of the reign of his present majesty	0 3 0
Any person occupying a farm at rack-rent, the rent of which shall be less than 10 <i>l.</i> sterling a year, and making a livelihood principally thereby, or occupying any estate on any other tenure than as tenant at rack-rent, or such other estate, together with a farm at rack-rent, the value of which in the whole shall be less than equivalent to a farm at the rack-rent of 10 <i>l.</i> sterling a year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent), and making a livelihood principally thereby, and likewise a profit by any trade or employment, and keeping not more than two horses, mares, geldings, or mules, <i>bond fide</i> for the purposes of such occupation and of such trade or employment jointly, or either of them separately, shall be charged for each of such two horses, mares, geldings, or mules, the annual sum of	0 3 0
In addition to the duty of 2 <i>s.</i> 10 <i>d.</i> granted by the act passed in the 48th year of the reign of his present majesty	0 0 2

“RULES for Charging the Duties as set forth in Schedule (F.), Nos. 1 and 2.

“The said duties to be charged on the person or persons keeping or using such horses, mares, geldings, or mules, and to be payable for every horse, mare, or gelding, and mule, which shall not be chargeable, nor have been charged, with any duty payable in that year, according to the schedule of the said act of the 48th Geo. III. c. 55, or the preceding schedule of this act respectively marked (E.), No. 1, except as hereinafter is mentioned.”

“EXEMPTIONS from the Duties in Schedule (F.), No. 1 and 2.

“Any person whatever, for any horse, mare, or gelding, which shall not at any time whatever have been used for any purpose of labour, or otherwise.”

“EXEMPTIONS to the several Duties as set forth in the several Schedules marked (E.) and (F.)

“Case I.—Any horse, mare, or gelding, belonging to his majesty, or any of the Royal family.”

“Case II.—Any postmaster, innkeeper, or other person licensed for that purpose by the commissioners appointed to manage the duties charged on stamped vellum, parchment, and paper, in respect of any horse, mare, or gelding, let to hire by him or her; provided that such horse, mare, or gelding, shall in every case be *bond fide* let to hire by him or her in such manner, that the stamp-office duty shall be payable on such horses let to hire on each letting, and shall be accounted for by delivery of the ticket denoting the stamp-office duty payable, and be duly satisfied and paid on each letting, according to the directions of the act or acts granting such stamp duty, without making composition for the same; and provided that such horse, mare, or gelding shall not, on any occasion, be used by such licensed person, or any other, without such letting to hire, and payment of stamp duty, as aforesaid.”

Postmasters, &c.

SCHEDULE (F.).—(Continued.)

Stage-coach masters.	“Case III.—Any person or persons duly licensed to keep any carriage whatever, to be employed as a public stage-coach or carriage for the purpose of conveying passengers for hire from different places in Great Britain, in respect of any horses, mares, or geldings, which are or shall be actually and solely used and employed by such person or persons in drawing such stage-coach or carriage from place to place.”
Hackney coachmen.	“Case IV.—Any person licensed by the commissioners for hackney coaches within the cities of London and Westminster, and the suburbs thereof, to keep any hackney coach or coaches, for any horses, mares, or geldings, kept for the purpose of drawing such coach in respect of the duties in the said respective schedules marked (E.), No. 1, and for two horses, mares, or geldings, and no more, kept for the purpose of drawing, each coach so licensed in respect to the duties in the said respective schedules marked (F.), No. 1.”
Horse-dealers.	“Case V.—Any dealer in horses assessed to the duties made payable by this act on such dealers, for any horse, mare, or gelding belonging to such dealer, and kept <i>bonâ fide</i> for sale, and not used for any other purpose, or in any other manner.”
Poor persons.	“Case VI.—Any person who, on account of poverty, shall be discharged from the assessment made in respect of his or her dwelling-house, in pursuance of the regulations of any of the acts herein mentioned, for one horse, mare, gelding, or mule; provided such person shall not keep more than one such horse, mare, gelding, or mule, and the same shall not be let to hire.”
Rector, &c.	“Case VII.—Any rector, vicar, or curate, actually doing duty in the church or chapel of which he is rector, vicar, or curate, who shall not be possessed of an income of 60 <i>l.</i> per annum or upwards, whether arising from ecclesiastical preferment or otherwise, and who shall not keep more than one horse, mare, gelding, or mule, for the purpose of riding, which otherwise would be chargeable with duty, according to the provisions of this act, except such person who shall occasionally perform the duty appertaining to any rector, vicar, or curate, without being the regular officiating minister of the parish or place in which such duty shall be performed.”
Volunteer officers.	“Case VIII.—Any effective officer commanding a volunteer corps, claiming and returning his exemption for not more than two horses, mares, or geldings, kept for his majesty's service in such corps.”
Officers and privates of volunteer cavalry.	“Case IX.—Any field officer, not being commandant, and any adjutant of any volunteer corps, and any person serving in any corps of yeomanry volunteer cavalry, or providing a horse, mare, or gelding, for any other person serving in any such corps, who shall be returned in the manner required by law as effective, and as having used any horse, mare, or gelding for such service, on the several days of muster and exercise of such corps; provided, in every such last-mentioned case, the exemption shall be claimed and returned in the manner required by the said last-mentioned act; and a certificate shall be delivered of such effective service in the manner required by the eleventh section of an act passed in the 44 <i>th</i> year of the reign of his present majesty, intituled, ‘An Act to Consolidate and Amend the Provisions of the several Acts relating to Corps of Yeomanry and Volunteers in Great Britain, and to make further Regulations relating thereto.’”
44 Geo. 3, c. 54, s. 11.	
Soldiers.	“Case X.—Any non-commissioned officer or private of any of the regiments of cavalry, or in the artillery, for any horse used in his majesty's service.”

For the provisions by the 1 Wil. IV. c. 35, s. 3 & 4, as to husbandry horses, see, *post*, 889.

Provisions by the 43 Geo. III. c. 161, relative to Assessing the Duties on Horses.

By the 43 Geo. III. c. 161, s. 27, persons who shall have kept any horses the years ending on the days appointed for the commencement of the duties the year 1804, are to return lists to the assessors, and be charged accordingly.

Sect. 39 gives directions for assessing persons keeping horses, who have a fixed residence, &c.

SCHEDULE (F.)—(*Continued.*)

Regulations for assessing Stable-Keepers and others letting Horses, &c. to Hire.

By sect. 40, persons letting to hire horses so that the stamp-office duty shall not be chargeable thereon, are to deliver lists of the greatest number kept in any preceding year.

By sect. 41, hirers of horses, where the stamp-office duty shall not be payable, are to return lists thereof.

By sect. 42, surveyors may surcharge in case of neglect of hirers in making returns, and the progressive duties for one year are to be charged on them, unless it be proved that the parties letting the same have been charged.

By sect. 43, stable-keepers, persons letting horses, &c., are to keep books containing entries of certain particulars.

By sect. 44, forms for entering such accounts are to be had at the Tax Office.

By sect. 46, gamekeepers, by whom certificates of horses so let to hire shall be filed, and farmers of stamp-office duties, to permit surveyors to inspect them.

By sect. 47, lists of persons licensed to let post-horses are to be transmitted to Tax Office.

SCHEDULE (G.) DUTIES ON DOGS.

[52 Geo. III. c. 93.]

“A SCHEDULE of the Duties payable on DOGS.”

For every greyhound kept by any person, whether the same be his or her property, or the property of any other person or persons, the annual sum of	0 8 6	Aggregate Duty. 1 0 0
In addition to the duty of 11s. 6d. granted by the act passed in the 48th year of the reign of his present majesty		
For every hound, pointer, setting dog, spaniel, terrier, or lurcher, and for every other dog, where any person shall keep two or more dogs, of whatever description or denomination the same may be, except greyhounds, whether the same be the property of him, her, or them, or of any other person or persons, the annual sum of	0 2 6	0 5 0
In addition to the like duty granted by the said act		
For every other dog not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier, kept by any person having one such other dog, and no more, whether the same be the property of him, her, or them, or any other person or persons, the annual sum of	0 1 0	0 8 0
In addition to the duty of 7s. granted by the said act		
For every pack of hounds, where the duty is compounded for, the annual sum of	2 0 0	36 0 0
In addition to the duty of 34 <i>l.</i> granted by the said act		

“The said duties to be paid by the persons respectively keeping such dogs, or having the same in his, her, or their custody or possession, whether the same be the property of him or them, or of any other person or persons, and not discovering the owner or owners thereof, who shall have been duly assessed for the same.”

“EXEMPTIONS from the Duties in Schedule (G.)

Royal family.
Poor person.

“Case I.—Any dog belonging to his majesty, or any of the royal family.”

“Case II.—Any person who, on account of poverty, shall be discharged from the assessment made in respect of his or her dwelling-house, in pursuance of the regulations of the said acts relating to the said present duties, and having one dog, and no more, the same not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier.”

Whelps.

“Case III.—Any person in respect of a dog or whelp which, at the time of returning the lists of dogs as by the said acts relating to the said present duties, shall not actually be of the age of six calendar months.”

Packs of hounds
compounded for.

“Case IV.—Any person, in respect of the whole number of hounds by him or her kept in Great Britain, who shall compound for the same, in any year within thirty days after the fifth day of April in such year, in pursuance of notice given to the collector or collectors of the said duty for any parish or place where such person shall be liable to be assessed, of his or her intention so to do, and on payment of the full sum of 36*l.* sterling to such collector or collectors, for which a receipt shall be given within the period before mentioned.”

“And where two or more persons join in keeping or using such hounds, then, in default of their compounding for the same, as aforesaid, any or all of the said persons shall be chargeable for every such hound kept by them, or any of them.”

By the 5 Geo. III. c. 44, s. 5, occupiers of farms under 100*l.* per annum exempted from the duty on dogs *bonâ fide* kept for the care of sheep, *ante*, 821.

Provisions by the 43 Geo. III. c. 161, respecting Duties on Dogs.

By the 43 Geo. III. c. 161, s. 27, persons keeping dogs are to return lists thereof and be charged accordingly.

Sect. 39, gives directions for assessing persons keeping dogs, and who have no fixed residence.

SCHEDULE (H.) DUTIES ON HORSE-DEALERS.

[52 Geo. III. c. 93.]

"A SCHEDULE of the Duties payable by HORSE-DEALERS."

Every person who shall use or exercise the trade and business of a horse-dealer within the cities of London and Westminster, and the liberties of the same respectively, the parish of St. Mary-le-Bone and St. Pancras, in the county of Middlesex, the weekly bills of mortality, or the borough of Southwark, in the county of Surrey, the annual duty of	25 0 0	Aggregate Duty.
In addition to the duty of 22 <i>l.</i> 10 <i>s.</i> granted by the act passed in the 48th year of the reign of his present majesty	2 10 0	
Every person who shall use or exercise the trade and business of a horse-dealer in any other part of Great Britain, the annual duty of	12 10 0	
In addition to the duty of 11 <i>l.</i> 5 <i>s.</i> granted by the said act.	1 5 0	

By the 59 Geo. III. c. 13, s. 4, it is enacted, "that, from and after the fifth day of April, 1819, all mares which shall be kept for the sole purpose of breeding shall, whilst so kept, be wholly exempt from duty; and that all persons shall and may sell any horses which shall have been bred by them or kept by them as farming stock upon lands in their occupation, for the space of three months at the least, without being liable to be assessed to the duties payable by horse-dealers; anything in any act or acts to the contrary notwithstanding."

Mares kept for breeding exempted; and horses bred by seller, &c.

Provisions by the 43 Geo. III. c. 161, regulating the Duties on Horse-Dealers.

By the 43 Geo. III. c. 161, s. 27, persons having exercised the business of a horse-dealer for the period within mentioned, are to give notice thereof and be assessed accordingly.

By sect. 43, horse-dealers are to enter account of horses sold in books, to be inspected by the assessors, &c.

By sect. 4, proper forms for such accounts are to be had at the Tax Office.

By sect. 48, horse-dealers, trading at different places, are to deliver returns at each, and declare where they will be charged.

SCHEDULE (I.) DUTIES ON HAIR-POWDER WEARERS.

[52 Geo. III. c. 93.]

52 Geo. 3, c. 93.

“ A SCHEDULE of the Duties payable by Persons in respect of HAIR-POWDER used or worn by them.”

By every person who shall have used or worn any hair-powder within	}	£. s. d.
the period limited by any of the acts herein mentioned, the annual		
sum of		

“ RULES for Charging the said Duties.

How chargeable.

“ I.—The said rate or duty to extend to every sort or composition of powder used or worn by any person as an article of, or in, or about, his or her dress, by whatever name the same shall be distinguished, and to be assessed upon and paid by the person having used or worn the same within the year preceding the term for which the assessment ought to be made, except as hereinafter mentioned.

Daughters unmarried.

“ II.—The unmarried daughters of any person shall not be chargeable with the said last-mentioned duties by this act made payable, or with the duties payable at the time of passing this act, or be required to make any return under this act, or the acts in force at the time of passing this act, provided the parent of such daughters shall have more than two unmarried daughters, and shall have given an account in any list by him or her delivered under this act, or the acts now in force, of the whole number of such daughters, and shall have required to be assessed and charged for the whole number by one assessment, in which case every such parent shall be assessed and charged in respect to the whole number of such daughters in twice the sum so payable on any single person for his or her having worn hair-powder, which shall exempt the whole number of daughters from the said duties, and each of them; and that neither the person giving such account, or any of the persons returned in such account, in respect of whom such charge shall be made, shall in such case be liable to any of the penalties imposed by this act, or the acts now in force, by reason of the duty not being paid for the whole number of such daughters.”

Servants.

“ III.—The master or mistress of any servant who shall have declared his or her intention to pay the duty which may be charged or chargeable as aforesaid in respect of such servant, and shall, in any list or lists returned by him or her, have given a true account of all the servants by him or her kept, in respect of whom such duty shall be payable, setting forth the several capacities in which such servants are respectively kept, shall be charged for such servant or servants; and in every such case, every such servant shall be deemed and construed to be exempted from the said duties during his, her, or their continuance in the same service; and also every servant, who shall come into the service of such master or mistress in the room of such servant named therein, to serve in the same capacity during the year in which the duty shall be so charged; and no servant named in such list or lists, or any servant serving such master or mistress in any capacity mentioned in such list or lists, shall, during the year for which such duty shall be charged, be required for himself or herself to make any such return, or to pay the said duties, or either of them, nor be liable to any penalty by reason of not making any such return, or not paying the said duty.”

“ EXEMPTIONS from the said Duties.

Royal family.

“ I.—Any of the royal family, and any of the menial servants of his majesty or any of the royal family.”

Naval and military officers.

“ II.—Any officer in actual employ in his majesty's navy, under the rank of commander; or any officer holding a commission in his majesty's navy under the said rank, who shall be employed on the establishment of the royal hospital at Greenwich; or any subaltern or non-commissioned officer or private man belonging to any regiment in the army, artillery, militia, division of marines, or corps of engineers; or any person enrolled and actually serving in any volunteer corps or body of men associated for the defence of any city, town, or place, and for maintaining public tranquillity and good order within the same, whether of infantry or cavalry, which now are or hereafter shall be raised; provided that every sect

Soldiers.

Volunteers.

SCHEDULE (I.)—(*Continued.*)

person enrolled and serving as aforesaid, so claiming to be exempted, shall make such return as by this act is directed,* with respect to the claim of exemptions; provided, that every such claim shall be proved by the certificate of the commanding officer of the corps, in the form in the schedule to this act annexed, marked (N.), and according to the regulations of this act in other cases of exemption by such volunteers.”

“ III.—Any clergyman who shall not be possessed of an annual income of 100*l.* Clergymen, &c. or upwards, whether arising from ecclesiastical preferment or otherwise; or any preacher or preachers of any congregation of dissenters, or any person dissenting from the Church of England, in holy orders, or pretended holy orders, who now is, or at any time hereafter shall be entitled to the benefit of the statute made in the first year of the reign of the late King William and Queen Mary, intituled ‘ An Act for exempting their Majesties’ Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws;’ or of the statute made in the nineteenth year of the reign of his present majesty, intituled, ‘ An Act for the further Relief of Protestant Dissenting Ministers and Schoolmasters:’ or of the statute made in the thirty-first year of the reign of his present majesty, intituled, ‘ An Act to relieve, upon Conditions, and under Restrictions, the Persons therein described, from certain Penalties and Disabilities to which Papists, or Persons professing the Popish Religion, are by Law subject,’ and who shall not be possessed of an annual income of 100*l.* or upwards, however arising; and the income arising from any benefice or benefices shall be estimated on the average amount thereof, computed on the period of seven years next preceding that on which such exemptions shall be claimed.”

* See s. 5. of this act, and 43 Geo. 3, c. 161, s. 361.

1 W. & M. st. 1, c. 18.

19 Geo. 3, c. 44.

31 Geo. 3, c. 22.

SCHEDULE (K.) ARMORIAL BEARINGS.

[52 Geo. III. c. 93.]

52 Geo. 3, c. 93. "A SCHEDULE of the Duties payable by Persons in respect of any Armorial Bearing or Ensign, used or worn by them, by whatever name the same shall be called."

	£. s. d.
By every such person chargeable with any duty made payable by this act, for any coach or other carriage, the annual sum of	2 8 0
By every such person not chargeable for any such coach or other carriage, but who shall be chargeable to any of the duties on inhabited houses, or to the duties on houses, windows, or lights, made payable by this act, the annual sum of	1 4 0
By every such person not chargeable for any such coach or other carriage, not being chargeable to the said duties on inhabited houses, or to the duties on houses, windows, or lights, the annual sum of	0 12 0

"The said duties to be paid by every person having used or caused to be used any armorial bearing or ensign, by whatever name the same is or shall be called, within the year preceding the term for which the assessment ought to be made, and to extend to every person who within the said period shall have been possessed of, or shall have kept or had any coach or other carriage chargeable with the duty by this act, or any seal, plate, or other article, on which carriage, seal, plate, or other article, any armorial bearing or ensign is or shall have been, during the said period, painted, engraved, marked, or affixed, and whether such armorial bearing or ensign shall be registered in the College of Arms or not."

"EXEMPTIONS from the said Duties as set forth in Schedule (K.)"

Royal family.
Public officers.

"Any of the royal family; or any person who shall, by right of office or by appointment, have worn or used any of the arms or insignia worn or used by the royal family, or used in any city, borough, or town corporate, in that part of Great Britain before described."

Provisions by the 43 Geo. III. c. 161, respecting the Assessment of Duties for wearing Hair-Powder and Armorial Bearings.

By the 43 Geo. III. c. 161, s. 27, persons having worn hair-powder or armorial bearings are to return lists to the assessors, and be charged accordingly.

SCHEDULE (L.) DUTIES FOR KILLING GAME.

SECONDLY,
THE DUTIES,
&c.

[48 Geo. III. c. 55; and 52 Geo. III. c. 93]

"A SCHEDULE of the Duties payable in respect of Killing GAME."

Upon every person who shall use any dog, gun, net, or other engine, for the purpose of taking or killing any game whatever, or any woodcock, snipe, quail, or landrail, or any coney, or shall take or kill, by any means whatever, or shall assist in any manner in the taking or killing, by any means whatever, any game, or any woodcock, snipe, quail, or landrail, or any coney, by virtue of <u>any deputation or appointment, duly registered or entered as gamekeeper</u> , for any manor or royalty in England, Wales, or Berwick-upon-Tweed, or for any lands in Scotland:	
If such person shall be a servant to any person duly charged in respect of such servant to the duties granted on servants in Schedule (C.), No. 1, there shall be charged in respect of every such person acting by virtue of such deputation or appointment, the annual sum of	Aggregate Duty. 1 5 0
In addition to the duty of 1 <i>l.</i> 1 <i>s.</i> granted in respect of such person by the act passed in the 48th year of the reign of his present majesty	0 4 0
And where the duty granted by the said act shall not be chargeable in respect of such person, the annual sum of	1 5 0
And if such person as last aforesaid shall not be a servant for whom the said duties on servants shall be charged, there shall be charged in respect of every such person acting by virtue of such deputation or appointment, the annual sum of	3 13 6
In addition to the duty of 3 <i>l.</i> 3 <i>s.</i> granted by the said act	0 10 6
And where the duty granted by the said act shall not be chargeable in respect of such person, the annual sum of	3 13 6
Upon every other person who shall use any dog, gun, net, or other engine, for any of the purposes before mentioned, or shall take or kill, by any means whatever, or assist in any manner in the taking or killing, by any means whatever, any game, or any woodcock, snipe, quail, or landrail, or any coney, there shall be charged the annual sum of	3 13 6
In addition to the like duty of 3 <i>l.</i> 3 <i>s.</i> granted by the said acts	0 10 6
And where the duty granted by the said act shall not be chargeable upon such person, the annual sum of	3 13 6

EXCEPTIONS to the above Duties.

"I.—The taking of woodcocks and snipes with nets or springes."

"II.—The taking or destroying of coney by the proprietors of warrens, or on any inclosed ground whatever, or by the tenants of lands, either by himself, herself, or themselves, or by his, her, or their direction or command."

"RULES for Charging the said last-mentioned Duties.

"I.—Every person who intends to use, or shall use, at any time after the fifth day of April, 1813, any dog, gun, net, or other engine, for any of the purposes mentioned in the schedule to this act annexed, marked (L.), shall, before he shall so use the same, in any year, and every person who intends to take or kill, or to (a)

Duty for using dogs, &c. paid to collectors of assessed taxes annually.

(a) "By the 54 Geo. III. c. 141, the duties, provisions, and penalties, contained in the said schedule of the said act, as relates to *persons aiding or assisting*, or intending to aid or assist, in the taking or killing of any game, or any woodcock, snipe, quail, landrail, or coney, in the manner hereinafter mentioned, shall, from and after the passing of this act, severally cease and deter-

mine; provided that the act of aiding and assisting as aforesaid, and in the said act mentioned, shall be done in the company or presence and for the use of another person, who shall duly have obtained a certificate in his own right, according to the directions of the said act, and who therein shall by virtue of such certificate then and there use his own dog, gun, net, or other engine, for

SCHEDULE (L.) GAME CERTIFICATES.—(Continued.)

any statute in force at and immediately before the passing of this act; nor unless such person shall be duly qualified so to do, under and by virtue of the said statutes; and all penalties and forfeitures, actions and suits, for offences against such statutes, shall and may be prosecuted and maintained for such offences, as if this act had not been made."

Gamekeepers' certificates confined to manor.

"X.—No assessment or certificate under the said acts and this act, or payment of the duty thereby imposed, by or for any person acting under a deputation or appointment, shall be received in evidence, or be available in law or equity, in any suit or prosecution, under this act, where proof shall be given of doing or having done any act for any of the purposes mentioned in this schedule, out of the precincts or limits of the manor, royalty, or lands for which such deputation or appointment was made or granted."

Certificates produced by persons on demand of assessor, &c.

"XI.—If any person shall be discovered doing any act whatever, in respect whereof such person shall be chargeable as aforesaid, by any assessor or collector of the parish where any such person shall then be, or by any commissioner for the execution of this act, acting for the county, riding, division, or place, in which such person shall then be, or by any lord or lady, or gamekeeper, of the manor, royalty, or lands, wherein such person shall then be, or by any inspector or surveyor of taxes, acting in the execution of the said acts or this act, for the district in which such person shall then be, or by any person duly assessed to the duties granted in this schedule, or consolidated therewith, or by the owner, landlord, lessee, or occupier of the land in which such person shall then be, it shall be lawful for such assessor, collector, commissioner, or gamekeeper, inspector, or surveyor, or other person as aforesaid, or such owner, landlord, lessee, or occupier of land as aforesaid, to demand and require from the person so acting, the production of a certificate issued to him for that purpose, which certificate every such person is hereby required to produce to the person so demanding the same, and to permit him to read the same, and (if he shall think fit) to take a copy thereof, or any part thereof; or in case no such certificate shall be produced to the person demanding the same as aforesaid, then it shall be lawful for the person having made such demand, to require the person so acting forthwith to declare to him his christian and surname, and place of residence, and the parish or place (if any) in which he shall have been assessed to the duties by this act granted or consolidated therewith; and if any such person shall, after such demand made, wilfully refuse to produce and show a certificate issued to him for that purpose, or in default thereof as aforesaid, to give in to the person so demanding the same his christian and surname, and place of residence, and the parish or place (if any) in which he shall have been assessed, or shall produce any false or fictitious certificate, or give any false or fictitious name, place of residence, or place of assessment, every such person shall forfeit and pay the sum of 20*l.*, to be sued for, recovered, and applied in the manner hereinafter directed."

Penalty.

Acting without certificate.

Penalty.

"XII.—If any person or persons shall, after the fifth day of April, 1813, in England or Wales, or after the twenty-fourth day of May, 1813, in Scotland, do any act for any of the purposes mentioned in this schedule, without having obtained such certificate as is directed by this act, in order to an assessment for the year wherein such person or persons shall so act, every such person shall forfeit and pay the sum of 20*l.*, to be sued for, recovered, and applied in the manner hereinafter directed; and every such offender shall also be liable to the payment to his majesty, his heirs or successors, to the full duty of 3*l.* 13*s.* 6*d.* sterling, over and above the said penalty to be charged in the assessment of the parish or place where the offence shall be committed, by way of increased charge by the inspector or surveyor of the said parish or place; which increased charge may be made at any time within six calendar months after the duty shall have accrued, and the said charge shall be allowed by two commissioners according to the directions of the acts relating to the duties of assessed taxes, subject to appeal whenever such commissioners shall appoint the time and place for hearing and determining the said appeal."

Appeal.

Offences, before whom determined, &c.

"XIII.—It shall be lawful for any two commissioners for executing this act, or for any one justice of the peace of the county, riding, or division, or the shire or stewardry, or for any city, borough, liberty, or place wherein any offence or offences mentioned or described in this schedule shall be committed, such justice being also a commissioner for executing this act; and he and they is and are hereby required, upon information or complaint to him or them made of any offence or offences committed within the district where he or they shall act as

SCHEDULE (L) GAME CERTIFICATES.—(Continued.)

such commissioner or commissioners, within three calendar months after the offence shall be committed, to summon the person or persons accused, and also the witnesses on either side, to appear before him or them; and upon the appearance of the person or persons accused, or in default of his or their appearance according to such summons, to proceed to hear and determine the matter in a summary way; and, upon due proof made thereof, either by the voluntary confession of the person or persons accused, or by the oath of one or more credible witness or witnesses, to give judgment for the penalty or penalties, or for such part thereof, to which part thereof the said commissioners or justice shall think proper to mitigate the same (the same not being in any case mitigated to less than one moiety of the said penalty or penalties); and, in default of payment of the same at the time of conviction, to award and issue his or their warrant or warrants, under his or their hand and seal, or hands and seals, for levying the penalty or penalties so adjudged, together with the reasonable costs and charges attending the same, as hereinafter directed, of the cattle, goods, and chattels, of the offender or offenders, and to cause sale to be made of the said cattle, goods, and chattels so distrained, in case they shall not be redeemed within four days; and the money arising from such sale shall in the first place be liable for payment of the said penalty or penalties adjudged to be paid, and in the next place for payment of the costs attending the information, conviction, and warrant, or informations, convictions, and warrants, to be settled by the said commissioners or justice, and indorsed on such warrant or warrants; and also the reasonable costs attending the distress and keeping the goods and chattels distrained, and maintaining the cattle, if any, during the four days allowed to redeem the same; and also the expense of the sale hereof, and of returning the said warrant or warrants to the commissioners or justice, and entering the same, with an indorsement thereon of what has been done therein; and where sufficient cattle, goods, or chattels of such offender or offenders cannot be found, to commit such offender or offenders to the house of correction, there to remain for any space of time not exceeding six calendar months, unless the said penalty or penalties shall be sooner paid; and if such person or persons shall find himself or themselves aggrieved by the judgment of such commissioners or justice, then he or they shall and may, upon giving security to be amount of double the said penalty or penalties, appeal to the justices of the peace at the next general quarter sessions for the county, riding, or division, or to the justice clerk, or other officer of the court of judicary of the shire, stewartry, city, liberty, or place, in Scotland; which courts respectively are hereby empowered to examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment of such commissioners, or justice or justices, shall be affirmed, it shall be lawful for the said court of quarter sessions, or court of judicary, to award the person or persons to pay costs occasioned by such information, conviction, and appeal, as to themselves shall seem meet."

"XIV.—If any person or persons shall be summoned as a witness or witnesses to give evidence before such commissioners or justice receiving such information, or before the courts of quarter sessions or judicary, upon appeal touching any of the matters contained in such information, either on the part of the prosecution or the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for his, her, or their neglect or refusal, to be allowed by the commissioners, or justice or justices, or court before whom the prosecution shall be depending, then and in every such case every such person shall forfeit for every such offence the sum of £1., to be recovered, levied, and paid in such manner, and by such means, as the penalties mentioned in this schedule may be recovered, levied, and paid."

"XV.—The commissioners or justice before whom any offender shall be convicted, shall cause the said conviction to be made out in the manner and form following, or in any other form of words to the like effect (*mutatis mutandis*): that s to say—

"Be it remembered, that on the _____ day of _____, in the year of our lord _____, at _____ of _____, f. B., of _____, was duly convicted by me [or, us] of [here state the offence], and adjudged to pay the sum of _____ for his said offence.
 "Given under the hands and seals [or, hand and seal] of _____, being commissioners acting in the execution of the acts relating to assessed taxes for

Witnesses not attending.

Penalty.

Form of conviction.

SCHEDULE (L.) GAME CERTIFICATES.—(Continued.)

assist in the taking or killing any game, woodcock, snipe, quail, landrail, or coney, shall, before he shall so take or kill, or assist in the taking or killing the same, pay, or cause to be paid, in each year, unto the collectors of the duties mentioned or referred to in the other schedules of this act, for the parish, ward, or place, where he shall reside, if in England, or to the collector of the like duties, or his deputy or sub-collector for the shire, county, borough, or place, where he shall reside, if in Scotland, or one of them, respectively, as aforesaid, for the time being, the duty hereby made payable, and shall obtain a certificate thereof in the manner herein directed, which certificate shall continue in force until and upon the fifth day of April next after the time of issuing the same, and no longer."

Collectors to give receipts.

"II.—Every collector, or his deputy or sub-collector, on application to him made by any person residing within the limits of his collection, and on payment to such collector, or his deputy or sub-collector, of the duty hereby made payable, shall give a receipt for the same, which receipt shall be signed by such collector, or his deputy or sub-collector, and made out conformable to such of the forms for certificates in the schedules to this act annexed, as the case may require; and every such receipt shall be a charge on the parish or place for which such collector, or his deputy or sub-collector, shall be appointed, for the sum therein expressed, in like manner and to the like effect, as if the said sum had been previously assessed and levied by such collector, or his deputy or sub-collector, under the warrant of the commissioners acting in the execution of this act, for which receipt the said collector, or his deputy or sub-collector, shall be entitled to demand and receive from such person the sum of one shilling over and above the said duty, and no more, which sum shall be deemed the compensation to such collector and his deputy, or sub-collector, for his pains and care in executing this act; and the duty so received shall be paid to the receiver-general or his deputy, at his or their next receipt of duties, in full and without deduction; provided that the receipts given for the duties contained in this schedule shall not be liable to any stamp duty whatever."

Fee.

Receipts exchanged for certificates by clerk to commissioners.

"III.—Every such receipt, being delivered to the clerk of the commissioners acting for the district where the person aforesaid shall reside, shall be exchanged for a certificate made out in one of the forms in the schedule to this act annexed, marked (N.), corresponding with such receipt, which certificate the said clerk shall hereby required, on demand, to make out and deliver gratis to such person, in exchange for the said receipt."

Commissioners to receive parties accordingly.

"IV.—The said receipts, so exchanged, shall severally be entered by the said clerks respectively, in books to be kept for that purpose, in the manner to be directed by the commissioners for the affairs of taxes; and the said books, together with the said receipts, being exhibited to the commissioners acting in the execution of this act for the district, and examined by them, shall be a sufficient authority to them, from time to time, to cause an assessment to be made on the several persons mentioned in such receipts in the respective sums paid by them, which assessments shall be of the like force and effect in all respects, and shall be as binding on the several collectors and others acting in the execution of this act, and on the several parishes and places for which such collectors shall have been respectively appointed, as any assessment to be made by the said commissioners respectively, under the regulations of the said acts under which they act as commissioners; and the said commissioners shall return duplicates thereof to the receiver-general, and to the commissioners for the affairs of taxes, in the manner directed by the said acts."

Commissioners to provide forms of receipts and certificates.

"V.—The commissioners for the affairs of taxes shall cause a sufficient number of receipts to be distributed amongst the several clerks, and by them to their several collectors in their respective districts; and the said clerks respectively shall be accountable to the said commissioners for the affairs of taxes for the same; and the several collectors shall be accountable to the respective clerks for the receipts delivered to them respectively; and the said commissioners for the affairs of taxes shall also cause a sufficient number of forms to be used in certificates, according to the forms specified in the schedule to this act annexed, marked (N.), to be distributed to the respective clerks in like manner, for which

the taking or killing of such game, by virtue of any deputation or appointment, woodcock, snipe, quail, landrail, or coney, and who shall not act therein."

SCHEDULE (L.) GAME CERTIFICATES.—(Continued.)

certificates the said clerks shall be respectively accountable to the said commissioners for the affairs of taxes."

"VI.—In any district wherein no clerk shall be appointed to act in the execution of the said acts, the surveyor of the same district shall execute the duty of such clerk in all matters and things herein required to be done by such clerk, and in every such case the certificates herein required shall and may be issued by such surveyor, according to the directions of this act; and in every place for which one collector only shall be appointed, who shall be chargeable to the duty contained in this schedule, an acknowledgment in writing under the hand of such collector, that he is chargeable with the said duty, and delivered to such clerk or surveyor respectively as aforesaid, shall be a sufficient authority for such clerk or surveyor to issue a certificate to such collector, and to make an assessment of the said duty upon such collector as in other cases under this act."

Where no clerk, surveyor to act.

How collector charged with duty if liable.

"VII.—Every master or mistress charged, or liable to be charged to the duties on servants mentioned in the said schedule marked (C.) No. 1, annexed to this act, in respect of any gamekeeper, whether such person shall have been deputed or appointed by such master or mistress, or by any other person or persons; and every person granting a deputation or appointment to the servant of any other person, who shall be duly charged to the said duty on servants in respect of such servant, whether as gamekeeper or in any other capacity, with power and authority to take or kill any game by any of the ways described in this schedule, shall be at liberty to obtain a receipt and certificate on behalf of such servant, on payment of the duty for the same in the manner before directed; and such receipt and certificate shall be a sufficient authority to assess the master or mistress, or person granting such deputation or appointment, and obtaining such receipt and certificate as aforesaid, and the certificate to be issued thereupon shall be deemed and construed to exempt the servant or servants named therein, during his or their continuance in the same capacity and service; and also to exempt any servant or servants of the same master or mistress who shall succeed to the deputation or appointment of the same manor or royalty, or lands, within the year for which the duty shall be so assessed, for and during the remainder of such year; and no such servant in whose behalf a receipt and certificate hath been duly obtained as aforesaid, shall be required to obtain a certificate for himself, nor be liable to the duty hereby granted, nor to any penalty by reason of not obtaining a certificate in his own name, or for not paying the said duty; provided always, that every certificate granted under this act to any person acting under any deputation or appointment shall, upon the revocation of such deputation or appointment, be from thenceforth void and of no further effect, as to the person therein deputed or appointed; provided, that if any lord or lady of any manor in England, Wales, or Berwick-upon-Tweed, or proprietor of lands in Scotland, shall, on the revocation of any deputation or appointment, by virtue of which a certificate hath been granted for any year, make a new deputation or appointment within the same year, to any person in his or her service, or in the service of the same master or mistress, who shall have been charged, as well to the duties on servants as to the game duties granted by this act, it shall be lawful for the clerk to the commissioners of the district, and every such clerk is hereby required, in such case to renew the certificate for the remainder of that year, in behalf of the person so newly appointed, without any duty or fee, by indorsing on such certificate the name and place of abode of the person to whom such last-mentioned deputation or appointment had been granted, and declaring the same to be a renewed certificate, free of duty or fee."

Gamekeepers' certificates.

"VIII.—The commissioners for the affairs of taxes shall, once or oftener in every year, as soon as conveniently may be after such certificates shall have been issued, cause the names and residences of the several persons to or for whom such certificates have been granted for that year, in each county in Great Britain, distinguishing the persons acting under any deputations or appointments from others; and the manors, royalties, or lands, for which deputations or appointments have been granted, and also distinguishing the rate of duty assessed, to be inserted in some newspaper circulated in each respective county, or in such other newspaper, and in such manner as to them shall seem proper."

Commissioners to advertise lists.

"IX.—Neither the assessment of the duty hereby imposed, nor the payment thereof, nor the certificate delivered, nor anything herein contained or done in pursuance of this act, shall authorize or enable any person to act in the manner described in this schedule, at any time or times, or in any manner prohibited by

Unqualified persons not protected by certificate, &c.

SCHEDULE (L.) GAME CERTIFICATES.—(Continued.)

any statute in force at and immediately before the passing of this act; nor unless such person shall be duly qualified so to do, under and by virtue of the said statutes; and all penalties and forfeitures, actions and suits, for offences against such statutes, shall and may be prosecuted and maintained for such offences, as if this act had not been made."

Gamekeepers' certificates confined to manor.

"X.—No assessment or certificate under the said acts and this act, or payment of the duty thereby imposed, by or for any person acting under a deputation or appointment, shall be received in evidence, or be available in law or equity, in any suit or prosecution, under this act, where proof shall be given of doing or having done any act for any of the purposes mentioned in this schedule, out of the precincts or limits of the manor, royalty, or lands for which such deputation or appointment was made or granted."

Certificates produced by persons on demand of assessor, &c.

"XI.—If any person shall be discovered doing any act whatever, in respect whereof such person shall be chargeable as aforesaid, by any assessor or collector of the parish where any such person shall then be, or by any commissioner for the execution of this act, acting for the county, riding, division, or place, in which such person shall then be, or by any lord or lady, or gamekeeper, of the manor, royalty, or lands, wherein such person shall then be, or by any inspector or surveyor of taxes, acting in the execution of the said acts or this act, for the district in which such person shall then be, or by any person duly assessed to the duties granted in this schedule, or consolidated therewith, or by the owner, landlord, lessee, or occupier of the land in which such person shall then be, it shall be lawful for such assessor, collector, commissioner, or gamekeeper, inspector, or surveyor, or other person as aforesaid, or such owner, landlord, lessee, or occupier of land as aforesaid, to demand and require from the person so acting, the production of a certificate issued to him for that purpose, which certificate every such person is hereby required to produce to the person so demanding the same, and to permit him to read the same, and (if he shall think fit) to take a copy thereof, or any part thereof; or in case no such certificate shall be produced to the person demanding the same as aforesaid, then it shall be lawful for the person having made such demand, to require the person so acting forthwith to declare to him his christian and surname, and place of residence, and the parish or place (if any) in which he shall have been assessed to the duties by this act granted or consolidated therewith; and if any such person shall, after such demand made, wilfully refuse to produce and show a certificate issued to him for that purpose, or in default thereof as aforesaid, to give in to the person so demanding the same his christian and surname, and place of residence, and the parish or place (if any) in which he shall have been assessed, or shall produce any false or fictitious certificate, or give any false or fictitious name, place of residence, or place of assessment, every such person shall forfeit and pay the sum of 20*l.*, to be sued for, recovered, and applied in the manner hereinafter directed."

Penalty.

Acting without certificate.

"XII.—If any person or persons shall, after the fifth day of April, 1813, in England or Wales, or after the twenty-fourth day of May, 1813, in Scotland, do any act for any of the purposes mentioned in this schedule, without having obtained such certificate as is directed by this act, in order to an assessment for the year wherein such person or persons shall so act, every such person shall forfeit and pay the sum of 20*l.*, to be sued for, recovered, and applied in the manner hereinafter directed; and every such offender shall also be liable to the payment to his majesty, his heirs or successors, to the full duty of 3*l.* 15*s.* 6*d.* sterling, over and above the said penalty to be charged in the assessment of the parish or place where the offence shall be committed, by way of increased charge by the inspector or surveyor of the said parish or place; which increased charge may be made at any time within six calendar months after the duty shall have accrued, and the said charge shall be allowed by two commissioners according to the directions of the acts relating to the duties of assessed taxes, subject to appeal whenever such commissioners shall appoint the time and place for hearing and determining the said appeal."

Penalty.

Appeal.

Offences, before whom determined, &c.

"XIII.—It shall be lawful for any two commissioners for executing this act, or for any one justice of the peace of the county, riding, or division, or the city or stewartry, or for any city, borough, liberty, or place wherein any offence or offences mentioned or described in this schedule shall be committed, such justice being also a commissioner for executing this act; and he and they is and are hereby required, upon information or complaint to him or them made of any offence or offences committed within the district where he or they shall act as

SCHEDULE (L.) GAME CERTIFICATES.—(Continued.)

such commissioner or commissioners, within three calendar months after the offence shall be committed, to summon the person or persons accused, and also the witnesses on either side, to appear before him or them; and upon the appearance of the person or persons accused, or in default of his or their appearance according to such summons, to proceed to hear and determine the matter in a summary way; and, upon due proof made thereof, either by the voluntary confession of the person or persons accused, or by the oath of one or more credible witness or witnesses, to give judgment for the penalty or penalties, or for such part thereof, to which part thereof the said commissioners or justice shall think proper to mitigate the same (the same not being in any case mitigated to less than one moiety of the said penalty or penalties); and, in default of payment of the same at the time of conviction, to award and issue his or their warrant or warrants, under his or their hand and seal, or hands and seals, for levying the penalty or penalties so adjudged, together with the reasonable costs and charges attending the same, as hereinafter directed, of the cattle, goods, and chattels, of the offender or offenders, and to cause sale to be made of the said cattle, goods, and chattels so distrained, in case they shall not be redeemed within four days; and the money arising from such sale shall in the first place be liable for payment of the said penalty or penalties adjudged to be paid, and in the next place for payment of the costs attending the information, conviction, and warrant, or informations, convictions, and warrants, to be settled by the said commissioners or justice, and indorsed on such warrant or warrants; and also the reasonable costs attending the distress and keeping the goods and chattels distrained, and maintaining the cattle, if any, during the four days allowed to redeem the same; and also the expense of the sale thereof, and of returning the said warrant or warrants to the commissioners or justice, and entering the same, with an indorsement thereon of what has been done therein; and where sufficient cattle, goods, or chattels of such offender or offenders cannot be found, to commit such offender or offenders to the house of correction, there to remain for any space of time not exceeding six calendar months, unless the said penalty or penalties shall be sooner paid; and if such person or persons shall find himself or themselves aggrieved by the judgment of such commissioners or justice, then he or they shall and may, upon giving security to the amount of double the said penalty or penalties, appeal to the justices of the peace at the next general quarter sessions for the county, riding, or division, or to the justice clerk, or other officer of the court of judicature of the shire, stewartry, city, liberty, or place, in Scotland; which courts respectively are hereby empowered to examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment of such commissioners, or justice or justices, shall be affirmed, it shall be lawful for the said court of quarter sessions, or court of judicature, to award the person or persons to pay costs occasioned by such information, conviction, and appeal, as to themselves shall seem meet."

"XIV.—If any person or persons shall be summoned as a witness or witnesses to give evidence before such commissioners or justice receiving such information, or before the courts of quarter sessions or judicature, upon appeal touching any of the matters contained in such information, either on the part of the prosecution or the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for his, her, or their neglect or refusal, to be allowed by the commissioners, or justice or justices, or court before whom the prosecution shall be depending, then and in every such case every such person shall forfeit for every such offence the sum of 10*l.*, to be recovered, levied, and paid in such manner, and by such means, as other penalties mentioned in this schedule may be recovered, levied, and paid."

"XV.—The commissioners or justice before whom any offender shall be convicted, shall cause the said conviction to be made out in the manner and form following, or in any other form of words to the like effect (*mutatis mutandis*): that is to say—

"Be it remembered, that on the day of , in the year of
our lord , at , in the of
A. B., of , was duly convicted by me [or, us] of [here state the offence], and adjudged to pay the sum of for his said offence.

"Given under the hands and seals [or, hand and seal] of ,
being commissioners acting in the execution of the acts relating to assessed taxes for

Witnesses not attending.

Penalty.

Form of conviction.

SCHEDULE (L)—(Continued.)

the district of , [or, , *being a justice of the peace,*
for , *and a commissioner acting in the execution of the acts relating*
to assessed taxes for the district of].”

Conviction to be entered. And every such conviction shall be entered and registered upon the books of assessment of the commissioners of the district where the offence was committed; and, after such entry and registry, shall be transmitted to the court of appeal, as herein directed, to be filed there of record; and the said conviction or entry of the same in the said books of assessment, or any examined copy thereof, shall be received in evidence before the respective commissioners for executing this act, in all matters relating to the duties contained in this schedule; and no conviction of such commissioners or justice shall be removable by any process whatever into any other court of law or equity, or be subject to revision in any manner other than as aforesaid.”

Application of penalties. “XVI.—All penalties and shares of penalties imposed by and recovered or paid under the authority of the rules contained in this schedule, shall be added to the first or supplementary assessment of the parish or place where the offence shall be committed (as the case shall require), and shall be paid to the collector or collectors of the duties contained in this schedule, for such parish or place, to be by him or them accounted for in the same manner, and paid to the receiver-general, at the same times as the duties contained in this act are to be accounted for and paid, and shall and may be distributed, apportioned, and applied in such manner as other penalties may by the said acts relating to the said duties be distributed, apportioned, and applied.”

“EXEMPTIONS from the Duties in Schedule (L.)”

“Any of the royal family.”

By the 5 Geo. IV. c. 44, s. 7, after reciting, “and whereas by the said acts, and the rules therein contained, it is provided that, if any person shall do any act for any of the purposes therein mentioned, without having obtained a certificate in order to an assessment for the duty thereby granted and payable, in respect of taking or killing game, or doing other acts therein mentioned, every such person shall forfeit and pay the penalty of 20*l*.; and every such offender shall also be liable to the payment of the full duty to his majesty, to be charged by way of increased charge by the inspector or surveyor in manner therein directed: and whereas doubts have arisen whether the inspector or surveyor in the said cases is authorized to charge for the game-duty persons liable who have omitted to pay the said duty, and obtain certificates thereof, without a previous proceeding against such offender, and a previous conviction thereof in the said penalty, or for some part thereof, and it is expedient to remove such doubts;” it is enacted, “that, from and after the passing of this act, it shall and may be lawful for any inspector or surveyor, acting in the execution of the said acts and of this act, without any previous information and conviction of the offender in the said penalty, or any part thereof, to charge, according to the provisions of the said acts, any person so chargeable with the said duty payable by persons in respect of their taking or killing game, or doing acts in the said act mentioned, and who shall have omitted to pay the said duty, and obtain the certificate as by the said acts directed; provided every such charge be made within the period limited by the said acts, and in the single duty only; and which charges shall be allowed by the respective commissioners in the execution of the said acts, and shall be subject to appeal according to the provisions and directions thereof, in like manner as any charges are authorized to be made by any inspector or surveyor, and appeals therefrom heard and determined under the said acts; any thing therein contained to the contrary notwithstanding.”

The inspectors and surveyors may, without a previous proceeding for the penalty, charge in single duty persons omitting to take out game certificates.

How charge to be made.

SCHEDULE (M.) EXEMPTIONS.

[48 Geo. III. c. 55 ; and 52 Geo. III. c. 93.]

No. 1.

“Further EXEMPTIONS from the several Duties in the several Schedules marked (C.), (D.), (E.), and (G.)”

“All persons having ordinarily resided in Ireland before the commencement of the session of Parliament in the fifty-second year of the reign of his present majesty, and being members of either house of the Parliament of the United Kingdom, whether on the part of Ireland, or for any place in Great Britain, and all persons who shall hereafter be members of the said Parliament as aforesaid, and who shall have ordinarily resided in Ireland previous to the commencement of the session of Parliament in which they shall respectively serve in Parliament; and all persons having ordinarily resided in Ireland as aforesaid, or who shall hereafter be ordinarily resident therein, and now holding or who shall hereafter hold offices of public employments in Ireland, and are now residing in Great Britain, or who shall hereafter reside in Great Britain, with the approbation or by the order or direction of the lord lieutenant, or other chief governor or chief governors of Ireland for the time being, or of his or their chief secretary for the time being, and which shall be certified under the hand of the lord lieutenant, or chief governor or chief governors, or his or their chief secretary, to be therein resident for the purposes of assisting in the execution of public business, shall be wholly discharged and exempted from the duties set forth in the schedules to this act annexed, marked (C.), (D.), (E.), and (G.); provided that this exemption shall not extend to any person ordinarily resident in Ireland as aforesaid, being a member of either house of Parliament of the United Kingdom, who hath resided or shall reside in Great Britain longer than during the session of Parliament, and forty days before and forty days after each session, nor to any article on which a duty is by this act made payable, which shall be retained, kept, employed, or used by such person in Great Britain, during the residence of such person in Ireland; provided also, that this exemption shall not extend to any person ordinarily resident in Ireland as aforesaid, holding an office or public employment in Ireland, unless the approbation in writing, or such order or direction of the said lord lieutenant, or other chief governor or chief governors of Ireland for the time being, or of his or their chief secretary for the time being, and a description of the place of abode in Great Britain of the persons respectively holding such offices or employments, shall have been before the passing of this act delivered into the office of the commissioners for the affairs of taxes in Somerset Place, or shall be so delivered within twenty days after the passing of this act, with respect to persons then in Great Britain, or within thirty days after the arrival in Great Britain of such persons respectively, who shall thereafter arrive: provided, also, that no person shall, for the purposes of claiming this exemption, be deemed to be ordinarily resident in Ireland, unless he shall reside therein during such portion of the year as is not covered by the privilege herein provided: and, for the better ascertaining the fact of such residence, every person claiming the benefit of this exemption shall verify the same upon oath (if required), before the commissioners acting in the execution of this act, in the district where such person shall reside.”

Irish members of Parliament and public officers.

Oath.

No. 2.

“Further EXEMPTIONS from the several Duties in the several Schedules marked (C.), (D.), and (E.)”

“Any sheriff of any county, or mayor or other officer in any corporation or royal burgh, serving an annual office therein, who, during such year of service, shall have kept or shall keep any number of servants, carriages, or horses, greater than the number such person was assessed to prior to the year of such service, and who shall have been assessed for such greater number for one year, shall be exempt from further assessment for such greater number for any other year, although such year of service may have run into a second year of assessment.”

By the 51 Geo. III. c. 72, intituled, "An Act for granting Exemptions in certain Cases from the Payment of the Duties charged in respect of Servants, Carriages, Horses, and Dogs, kept in Great Britain and Ireland respectively:"

48 Geo. 3. c. 55.
50 Geo. 3. c. 104.

after reciting, that, "whereas by certain acts passed in the forty-eighth and fiftieth years of the reign of his present majesty, certain duties are granted to his majesty on male servants, carriages, horses for riding or drawing the said carriages, and on dogs, to be annually assessed and paid throughout Great Britain, which duties are placed under the management of the commissioners for the affairs of taxes in Great Britain: and whereas by a certain act passed in the same forty-eighth year of the reign of his present majesty, certain duties are also granted to his majesty on male servants, carriages, horses for riding or drawing the said carriages, and on dogs, to be annually levied and paid throughout Ireland, which last-mentioned duties are placed under the management of the commissioners of inland excise and taxes in Ireland; and whereas it is just and reasonable that persons residing partly in Great Britain and partly in Ireland should not pay the duties granted by the said several acts for the same establishment of servants, carriages, horses, and dogs, in the same year in both parts of the United Kingdom;" it is enacted, "that every person who shall have paid the said duties so payable in Great Britain, in respect of any such servants, carriages, horses, or dogs, for the period of one whole year, who shall also at any time within the same year, as hereinafter is provided, be charged to the said duties so payable in Ireland, for his or her servants, carriages, horses, or dogs, kept in Ireland (the said servants, carriages, horses, or dogs, so kept in Ireland, being either the same servants, carriages, horses, or dogs, which are so charged in Great Britain in such year, or servants in the same capacities, or carriages, horses, or dogs of the same descriptions, chargeable in Great Britain with the like duties, and kept in lieu of such of the said servants, carriages, horses, or dogs, as have been *bona fide* parted with) shall be wholly exempted from payment in Ireland for one year of the duties so charged thereon, in respect of each and every of the said servants, carriages, horses, and dogs, kept in Ireland; and every person who shall have paid the said duties so payable in Ireland, in respect of any such servants, carriages, horses, or dogs, for one year, who shall at any time within the same year, as hereinafter is provided, be charged to the said duties so payable in Great Britain, for his or her servants, carriages, horses, or dogs, kept in Great Britain, the said servants, carriages, horses, or dogs, so kept in Great Britain, being either the same servants, carriages, horses, or dogs, which are so charged in Ireland in such year, or servants in the same capacities, or carriages, horses, or dogs of the same descriptions, chargeable in Ireland with the like duties, and kept in lieu of such of the servants, carriages, horses, or dogs, as have been *bona fide* parted with, shall be exempted from payment in Great Britain for one year, of so much of the said duties so charged thereon as the duty paid in Ireland, in respect of each and every of the same servants, carriages, horses, and dogs, kept in lieu thereof respectively as aforesaid, shall amount unto, provided that due proof shall be made of such payments in Great Britain or Ireland respectively, in the manner hereinafter directed."

Persons paying the duties for servants, &c. in Great Britain, not liable to pay for same establishment in Ireland.

Persons paying in Ireland shall only be liable for amount of duty in Great Britain.

Periods at which the respective duties commence.

Persons claiming exemption in Great Britain to produce certificates of payment of duties in Ireland.

Sect. 2. "And whereas the said duties payable in Great Britain are chargeable yearly, from the fifth day of April in each year, and the said duties payable in Ireland are chargeable yearly, from the fifth day of January in each year; be it declared and further enacted, that proof of payment in Ireland in the manner herein directed, within any year, commencing on the fifth day of January in such year, shall entitle the claimant to the exemption hereby granted in Great Britain, for the year commencing on the fifth day of April following, and proof of payment in Great Britain in the manner herein directed, for one year, from the fifth day of April in any year, shall entitle the claimant to the exemption hereby granted in Ireland, within the year commencing on the fifth day of January preceding."

Sect. 3. "That every person claiming to be exempted from any of the said duties in Great Britain, by virtue of this act, shall produce and deliver to the surveyor or inspector of the district where such claimant shall reside, a certificate under the hand of the proper officer of the inland excise and taxes in Ireland, containing a true copy of the receipt and receipts given to such claimant

on all such payments as aforesaid for the last year wherein such claimant was charged to the said duties in Ireland, which certificate shall either contain, or there shall be annexed thereto, a return containing the number of servants, carriages, horses, and dogs, paid for in Ireland by such claimant in the last year, and the names and capacities of the said servants, and the descriptions of the said carriages, horses, and dogs, as required by the said first-recited acts, distinguishing which of the said servants, carriages, horses, or dogs, are the same with those so charged in Ireland, and which of them are kept in lieu of such of the said servants, carriages, horses, or dogs, which have been parted with; and every such claim, being first signed by the claimant in his or her own proper name, and in his or her usual manner of writing, the same shall be transmitted to the commissioners for the affairs of taxes in England, and the said commissioners shall inquire and examine into the truth of every such claim in such manner as they shall think necessary; and the commissioners for the affairs of taxes, in their inquiries and examinations into such claims, and whenever any such claims shall be duly proved to the satisfaction of the commissioners for the affairs of taxes in England, they shall certify the same to the commissioners of the district where such claims respectively shall be made, and shall give such directions for granting the required exemptions, either before or after assessment, as to them shall seem necessary, in order to give the relief granted by this act, and the assessment on every such claimant shall be made, discharged, altered, or amended accordingly."

Sect. 4. "That the several amounts of duty so to be exempted in Great Britain shall be retained and set down in figures in the several books and duplicates of assessment of the respective commissioners, under the head of *Exemptions on Account of Ireland*, and shall be respectively deducted from the whole duty chargeable on each claimant by virtue of the said recited acts, and the difference between the duty so chargeable and the amount of the sum to be exempted shall be set down as the net duty to be paid by each such claimant, and the duplicate thereof to be delivered to the collector of the parish, ward, or place where each such claim shall have been allowed, shall be made or amended in such manner that the net duty only shall be demanded of or paid by each such claimant."

Amount of such exemptions to be kept.

Sect. 5. "That every person claiming to be exempted from any of the said duties in Ireland, by virtue of this act, shall produce and deliver to the proper officer of inland excise or taxes in Ireland, a certificate under the hand of the said claimant containing the number of servants, carriages, horses, and dogs, assessed on such claimant in Great Britain for the last year of such assessment, together with the names and capacities of the servants, and the descriptions of the carriages, horses, and dogs charged therein, distinguishing which of the said servants, carriages, horses, or dogs, are the same with those so charged in Great Britain, and which of them are kept in lieu of such of the said servants, carriages, horses, or dogs, which have been parted with, and also a true copy of the receipt and receipts given to such claimant on all such payments as aforesaid, for that year, containing the district or county, and the parish, ward, or place, where such payments were made; and every such claim being first signed by the claimant, in his or her own proper name, and in his or her usual manner of writing, the same shall be transmitted to the commissioners of inland excise and taxes in Ireland, who shall inquire and examine into the truth of every such claim in such manner as they shall think necessary, and the commissioners for the affairs of taxes in England shall and they are hereby required to aid and assist the commissioners of inland excise and taxes in Ireland in their inquiries and examinations into such claims; and whenever any such claims shall be duly proved to the satisfaction of the commissioners of inland excise and taxes in Ireland, it shall be lawful for them to grant the said exemptions in such manner as they are authorized to grant other exemptions by any act or acts in force relating to the said duties."

Persons claiming exemptions in Ireland to produce certificates of payment of duties in Great Britain.

Sect. 6. "That if any person or persons shall make any such claim in Great Britain, without having first paid the duties in Ireland for the same articles respectively, or for articles of the same descriptions respectively with the articles for which such exemption is claimed, or if any person or persons

Claiming exemptions fraudulently.

shall make any such claim in Ireland, without having first paid the duties in Great Britain for the same articles respectively, or for articles of the same descriptions respectively with the articles for which such exemption is claimed; or if any person or persons shall be guilty of any fraud or contrivance with intent to evade the payment of any of the said duties, taxes, impositions, or sum or sums of money granted or made payable in Great Britain or Ireland by virtue of the said recited acts, or any of them, either in making any such claim, or in obtaining any such exemption, or shall deliver any false or fraudulent certificate, with intent to obtain any such exemption, or shall make a second claim for the same cause, every such person so offending shall forfeit any† pay the sum of 100*l*."

† *Sic* in act.

Penalty.

How penalties recovered and applied.

Sect. 7. "That in every case where the said penalty shall be incurred in Great Britain, the same may be sued for, recovered, and applied, as any penalty for any offence committed against the said first-recited acts, or either of them, relating to the said duties payable in Great Britain, may be sued for, recovered, or applied, in that part of Great Britain where the said offence shall be committed; and in every case where the said penalty shall be incurred in Ireland, the same may be sued for, recovered, and applied, as any penalty for any offence committed against the last-recited act, or any other act or acts in force in Ireland respecting the same, may be sued for, recovered, or applied in Ireland."

Exemptions to members of Parliament and public officers not affected.

Sect. 8. "That nothing in this act contained shall extend or be construed to extend to or in any way to affect any of the exemptions from the payments of the said duties granted and allowed by any act or acts of Parliament, to members of Parliament ordinarily resident in Ireland, or persons holding offices or public employments in Ireland, and being resident in Great Britain, for the purposes of assisting in the execution of the public business, or to alter the manner of claiming such exemptions as are granted and allowed by the said act or acts last mentioned."

FORMS.

SCHEDULE (N.) FORMS OF CERTIFICATES.

[48 Geo. III. c. 55; and 52 Geo. III. c. 93.]

I.—Form of CERTIFICATE to be delivered by Members of Volunteer Corps.

"I, _____, commanding officer of the _____, do hereby certify, in pursuance of an act passed in the fifty-second year of the reign of his present majesty, intituled, '*An Act*' [here insert the title of this act] (a), that the several persons herein named and described are severally enrolled and serving in the said corps, and have duly attended at the muster and exercise of the said corps for _____ days, in the course of the year next preceding the date hereof; which muster rolls have been duly returned, testifying the same pursuant to the said act.

"(Signed)

"Dated the _____

day of _____

"

"Commanding Officer."

II.—Form of CERTIFICATE to be issued to every Gamekeeper, being a Servant for whom the Master or Mistress, or the Lord or Lady of the Manor or Royalty (if in England), or the Proprietor of Lands (if in Scotland), shall be duly assessed to the Duty on Servants.

"No. _____ Game-Duty Certificate (A.)

["To be used where the servant pays the duty.]

"By A. B., clerk to the commissioners acting in the execution of the act for assessed taxes for the division of I., in the county of L.

"Received from C. D., residing in the parish [or, township] of [here name the parish or township], in the said county, an assessed servant of E. F. [here name the

(a) "An Act for repealing the Duties of Assessed Taxes, and granting new Duties in lieu thereof, and certain additional Duties, to be consolidated therewith; and also for repealing the

Stamp Duties on Game-Certificates and granting new Duties in lieu thereof to be placed under the Management of the Commissioners for the Affairs of Taxes."

SCHEDULE (N.)—(Continued.)

master or mistress], of [here name the residence of the master or mistress], (in exchange for this certificate), a receipt under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of 1l. 5s. sterling, as the game-duty chargeable upon the said C. D., in respect of his deputation as gamekeeper of the manor or royalty of K., in the said county [if the certificate be granted in England, or, if in Scotland, in respect of his appointment of gamekeeper of the lands of K., in the said county.] Given in pursuance of acts passed in the forty-eighth and fifty-second years of the reign of George the Third, and certified the day of , in the year of our Lord

“(Signed) , Clerk.”

“This certificate will expire on the fifth day of April next.”

III.

“No. . Game-Duties' Certificate (B.)

[“To be used where the master pays the duty.”]

“By A. B., clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of I., in the county of L.

“Received from E. F. [here name the master or mistress], residing in the parish [or, place] of [here name the residence of the master or mistress], in the said county, on behalf of C. D., an assessed servant of the said E. F. (in exchange for this certificate), a receipt under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of 1l. 5s. sterling, as the game-duty chargeable upon the said servant in respect of his deputation as gamekeeper of the manor or royalty of K., in the said county [if the certificate be granted in England, or, if in Scotland, in respect of his appointment as gamekeeper of the lands of K., in the said county.] Given in pursuance of acts passed in the forty-eighth and fifty-second years of the reign of George the Third, and certified the day of , in the year of our Lord

“(Signed) , Clerk.”

“This certificate will expire on the fifth day of April next.”

IV.—Form of CERTIFICATE to be issued to every Gamekeeper, not being an assessed Servant to any Person or Persons.

“No. . Game-Duty Certificate (C.)

“By A. B., clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of I., in the county of L.

“Received from C. D., residing in the parish [or, township] of [here name the parish or township], in the said county (in exchange for this certificate), a receipt, under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of 3l. 13s. 6d. sterling, for the game-duty chargeable upon the said C. D., in respect of his deputation as gamekeeper of the manor or royalty of K., in the said county [if the certificate be granted in England, or, if in Scotland, in respect of his appointment as gamekeeper of the lands of K., in the said county]; the said C. D. not being an assessed servant to any person or persons. Given in pursuance of acts passed in the forty-eighth and fifty-second years of the reign of George the Third, and certified the day of , in the year of our Lord

“(Signed) , Clerk.”

“This certificate will expire on the fifth day of April next.”

V.—Form of CERTIFICATE to be issued to every Person not being a Gamekeeper.

“No. . Game-Duty Certificate (D.)

“By A. B., clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of I., in the county of L.

“Received from C. D., residing in the parish [or, township] of [here name the parish or township], in the said county (in exchange for this certificate), a receipt, under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of 3l. 13s. 6d. sterling, for the game-duty chargeable upon the said C. D., in his own right, throughout Great Britain. Given in pursuance of acts passed in the forty-eighth and fifty-second years of the reign of George the Third, and certified the day of , in the year of our Lord

“(Signed) , Clerk.”

“This certificate will expire on the fifth day of April next.”

IV. Of Compounding for Assessed Taxes. (a)

[59 Geo. III. c. 51; 1 Geo. IV. c. 73; 1 & 2 Geo. IV. c. 113; 5 Geo. IV. c. 50; 4 Geo. IV. c. 11; 4 Geo. IV. c. 43; 5 Geo. IV. c. 44; 7 Geo. IV. c. 22; 10 Geo. IV. c. 21; 1 Wil. 4, c. 35.]

- By the 59 Geo. III. c. 51, "An Act to relieve Persons compounding for their Assessed Taxes, from an Annual Assessment, for the term of Three Years," sect. 1, after reciting, that, "whereas, by an act passed in the forty-eighth year of the reign of his present majesty, intituled, 'An Act for repealing the Duties of Assessed Taxes, and granting new Duties in lieu thereof, and certain additional Duties, to be consolidated therewith; and also for repealing the Stamp Duties on Game-Certificates, and granting new Duties in lieu thereof, to be placed under the Management of the Commissioners for the Affairs of Taxes,' certain duties of assessed taxes were granted to his majesty: and by another act, passed in the fifty-second year of the reign of his said majesty, intituled, 'An Act for granting to his Majesty certain new and additional Duties of Assessed Taxes, and for consolidating the same with the former Duties of Assessed Taxes,' certain new and additional duties of assessed taxes were also granted and consolidated with the former duties of assessed taxes, which duties have been varied by several subsequent acts; and it is expedient to relieve such persons as are willing and desirous of compounding for their assessed taxes from an annual assessment, and all further or increased charges on articles of the same description, for a term to be limited, on condition of paying certain additional rates on the amount of the last assessment made prior to the passing of this act;" it is enacted, "that the assessments made under and by virtue of the said acts, for the year ending on the fifth day of April, 1819, shall be and remain to the same amount, in respect of all and every the persons and person who shall compound for the annual payment thereof, for the term of three years, to commence from the said fifth day of April, 1819, upon the terms and conditions hereinafter mentioned; and it shall be lawful for the commissioners acting in execution of the said several acts, for any county, city, town, or place, in Great Britain, or any two or more of them, in their respective divisions, to contract and agree with any persons or person who are or is assessed to the rates and duties granted by the said acts, or any of them, for the said year ending on the fifth day of April, 1819, and who shall apply to them for that purpose, in the same division in which such assessment hath been made, for the composition of their, his, or her assessed taxes, for the said period of three years, according to the directions and provisions of this act; and all and every persons and person assessed for the year ended as aforesaid, to the duties made payable by virtue of the said acts, or any of them, are and is hereby respectively declared to be competent to enter into composition with the said respective commissioners, for their, his, or her assessed taxes, for the term of three years, to commence from the said fifth day of April, on the same amount annually as shall have been assessed upon them, him, or her, for the year ended as aforesaid, together with an additional annual rate for every 20s. of the amount so assessed, to be ascertained and fixed in the proportions and in manner herein mentioned, except as hereinafter is provided."
- Section 2. "That the duties assessed on inhabited houses and on windows or lights, contained in the schedules marked (A.) and (B.), or either of them, referred to by the said act of the forty-eighth year aforesaid, shall be compounded for separately and distinctly from all and every the other duties herein mentioned, chargeable under the said acts, or any of them; and where any such composition shall be made on the amount of the said duties assessed on inhabited houses and on windows or lights, the proportion of the said additional rate shall be 1s. for every 20s. of the amount so assessed, and so, after that rate, for any greater or lesser sum than 20s.; and where any such composition shall be made on the amount of any other of the duties granted by the
- 48 Geo. 3, c. 55.
- 52 Geo. 3, c. 93.
- Assessments for the year ending April 5, 1819, to continue at the same amount for three years.
Commissioners empowered to contract.
- Persons assessed in the last year may compound.
- Compositions on house and window duties made separately.
- Additional rate of 1s. for every 20s. on amount of compositions.

(a) See the divisions of this subject, *ante*, p. 699.

said acts (except the duties granted thereby in respect of killing game), the proportion of the said additional rate shall be 1*s.* for every 20*s.* of the amount so assessed, and so, after that rate, for any greater or less sum than 20*s.*"

Sect. 3. "That all and every persons and person entering into any such composition according to the provisions of this act, and paying the amount of the sums compounded for at the times, and in the proportions, and in manner herein specified, and doing and performing all other acts, matters, and things, required by this act, shall be entitled to make or open, and keep open, during the said term, free of duty, any additional number of windows or lights, in their, his, or her dwelling-house, in respect of which such composition shall have been made, and also to keep and use, free of duty, any additional article or articles of the same description, and chargeable under the same schedule of the said acts (although the same may be therein charged with different and progressive rates of duty, according to the number thereof), as they, he, or she were or was charged in respect of, in the assessment on which the composition shall have been made; and shall be exempt from any further compliance with any of the provisions contained in the said acts relating to the assessed taxes, and from all assessments thereon, during the said term of three years; except where the persons or person entering into such composition, shall be or become chargeable with the said duties in respect of a dwelling-house or dwelling-houses not comprised in the said composition; or in respect of any article or articles of a different description, or chargeable with duty under some other schedule or schedules of the said acts, than they, he, or she were or was charged in respect of in the assessment on which the composition shall have been made; in which excepted cases, and no other, further or increased charges shall be made, and the fines, penalties, and forfeitures inflicted according to the provisions of the several acts, in relation to the said taxes in force at and immediately before the passing of this act, as fully and effectually as if no such composition had been made under this act."

Sect. 4. "That no composition shall be entered into under this act with any persons or person who shall have become chargeable in the present year, by reason of any different or additional establishment set up within the year ending on the fifth day of April, 1819, to a greater amount of duty than hath been charged on them, him, or her, in the said last year's assessment, without including, as well the amount of duty so charged in the said assessment, as the increased amount of duty so becoming chargeable by reason of such different or additional establishment, nor in any such case where a *bona fide* return of such different or increased establishment shall not be made before the first day of July, 1819."

Sect. 5. "That no person shall be chargeable under the acts in force at the time of passing this act, after the expiration of the said term of three years, for any part of the increased establishment not included in the composition entered into under this act, who shall give six months' previous notice of his intention to discontinue the same, and who shall actually have ceased to keep the same one calendar month prior to the expiration of the said period of three years."

Sect. 6. "That when an establishment shall have consisted in part of articles whereon a less duty hath been made payable by an act in the present session of Parliament, it shall be lawful to enter into compositions under this act, on the amount of duty charged on other articles on the said last assessment, together with the amount of duty so made chargeable by the said act of the present session of Parliament."

Sect. 7. "That every composition entered into under this act, in respect of the duties charged on a dwelling-house from which the persons or person entering into the same shall remove during the term herein limited, shall cease and determine on the fifth day of April next after such removal; and every composition entered into under this act, in respect of any other of the duties granted by the said acts, with any persons or person who, within the said term herein limited, shall die, or become bankrupt or insolvent, or shall assign their, his, or her goods, chattels, or effects, shall also cease and determine on the first day of April next after such death, bankruptcy, insolvency, or assignment."

Sect. 8. "That every composition entered into in pursuance of this act, sub-

90 Geo. 3, c. 51.

Compositions to entitle persons compounding to open additional windows, and to keep additional articles, free of duty, of the same description as those before charged.

Exemption: except when chargeable for another dwelling-house, or for articles of a different description.

Persons chargeable to a greater amount than in the last year's assessment, to be compounded on the increased amount.

Persons compounding not to be charged for their increased establishment.

Articles of different assessments to be compounded for on the last assessment.

Compositions to cease at the end of the year.

Compositions to bind party to punctual payment of amount.

50 Geo. 3, c. 51.

Parties removing, and the executors and assigns of persons dying, &c. to be answerable for the compositions to the end of the year.

Arrears to be paid.

Composition monies payable quarterly, as assessed taxes.

Proviso for payment of compositions not less than 20*l.* into the Bank, or to receiver-general, by half-yearly payments.

Receiver-general to give receipts, to be delivered over to the collector, and by him received as cash.

ject to the determination thereof as aforesaid, shall bind the persons or person entering into the same, their, his, and her chattels, goods, and effects, to the due and punctual payment and satisfaction, at the times and in the proportions herein specified, of the full amount of the sums made payable upon the said composition, or by virtue thereof, during the continuance of the same, according to and under the provisions of this act."

Sect. 9. "That all and every persons or person so having compounded, and quitting or removing from the dwelling-houses or dwelling-house in respect of which such composition shall be made, and the executors, administrators, or assignees of such persons or person dying or becoming bankrupt or insolvent, and the assigns of any such persons or person assigning their, his, or her estate, chattels, goods, or effects, shall be bound to the due and punctual payment of all sums accruing, due, or in arrear at the respective times of such removal, death, bankruptcy, insolvency, or assignment, or which shall be payable upon such composition for the year ending on the fifth day of April next after such removal, death, bankruptcy, insolvency, or assignment; and no goods or chattels whatever, belonging to any persons or person so having compounded, and quitting or removing from their, his, or her dwelling-houses or dwelling-house, or dying or becoming bankrupt or insolvent, or assigning their, his, or her estate, chattels, goods, or effects, shall be removed, nor shall any goods or chattels belonging to any persons or person so having compounded, be liable to be taken by virtue of any execution or other process, warrant, or authority, unless the persons or person so having compounded, or their, his, or her executors, administrators, or assignees, or the party to whom any such assignment shall be made, or by whom such process, warrant, authority, or seizure, shall be sued out or made, shall, before the removal of such goods or chattels, pay, or cause to be paid, to the proper collector or collectors of the said composition-money (the same not having been paid to the governor and directors of the Bank of England, or the receiver-general, or his deputy, pursuant to the directions of this act), all arrears of the said monies which shall be then due, or which shall be payable for the year ending on the fifth day of April next after such removal, death, bankruptcy, insolvency, assignment, or seizure; and in case of refusal to pay the said composition-money then due, or to grow due, as aforesaid, the said collectors or collector are or is hereby authorized and required to distrain such goods or chattels, and proceed to the sale thereof, in such manner as they may sell any goods or chattels distrained under the said acts, until they or he shall have obtained payment of the said composition-money, together with the reasonable costs and charges attending such distress and sale; and every such collector shall be indemnified for so doing by virtue of this act."

Sect. 10. "That the monies to arise or become payable by virtue of the compositions entered into under this act, shall be payable without demand and paid quarterly, at the same times and in the same proportions, and to the same persons respectively, as the duties of assessed taxes are now payable by virtue of any act or acts in force at and immediately before the passing of this act: provided always, that all and every the persons and person so composing as aforesaid, the amount of whose annual compositions or composition shall not be less than 20*l.*, may contract and agree with the respective commissioners aforesaid, for the payment of their, his, or her composition-money into the Bank of England, or to the receiver-general, or his lawful deputy, for the county or division where their, his, or her composition-money shall be payable, by half-yearly instalments at the times and in the manner herein prescribed in this act; and all such half-yearly payments shall be made in equal portions on or before the first day of October, and the first day of April in each year: and with respect to payments to be made to the receiver-general, or his deputy, to require a receipt or receipts acknowledging such payments, at the cost and charge of the persons or person making such payments, in such form as the commissioners for the affairs of taxes shall devise and direct; and in every such case the said receiver-general, or his deputy, as aforesaid, shall give the said persons or person by whom such payments shall be made, a receipt or receipts as aforesaid, specifying therein the names or name of the person

or person compounding as aforesaid, and the parish or place mentioned in the certificate of composition; which receipts shall be delivered over to the collectors, or one of them, of the parish or place where the assessment referred to by the certificate of composition shall have been made, by indorsement, under the hands or hand of the persons or person so compounding and paying, and shall be received by such collectors or collector as cash, and allowed as such by every receiver-general, or his deputy, in his accounts with such collector."

Sect. 11. "That the governors and directors of the Bank of England shall open an account in their books with the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland for the time being, for each year, during the term herein limited, under the title of 'The Commissioners of the Treasury on account of Compositions of Assessed Taxes,' and shall carry to the credit of such account all monies authorized by this act to be paid into the said Bank of England; and the cashier of the Bank of England, who shall receive any money tendered to him in payment of not less than one moiety of the money annually payable on any composition, shall enter the same in the book to be provided for that purpose, and all such sums shall be entered under the names or name of the persons or person compounding as aforesaid, and the county, division, and parish, or place, mentioned in the certificate of composition; and the said cashier shall give the person paying the same a certificate of such payment, specifying therein the number of half-yearly instalments thereby discharged, and referring therein to the names or name of the person or persons so compounding, and the county and division mentioned in the certificate of composition then produced: provided always, that it shall be lawful for any persons or person so authorized as aforesaid, to pay, or cause to be paid in advance, to the governor and company of the Bank of England, or to their cashier or cashiers, any sum or sums of money compounded for as aforesaid, and payable for the term of one whole year, and to require a certificate or certificates acknowledging such payments; and it shall be lawful for the cashier or cashiers of the said Bank of England, on production of the certificate of composition at the time of payment of the said duty in advance (all sums then payable on such composition for any former year or instalment being first satisfied), to make an allowance out of the sum or sums so paid in advance, at the rate of *3l. per centum per annum*, calculated for the period or periods by which each respective sum shall be paid sooner than the period prescribed by this act for the payment thereof; and all such certificates made out by the cashier or cashiers of the governor and company of the Bank of England, as aforesaid, being indorsed and delivered by the persons or person so compounding, to the collectors, or one of them, of the parish or place where the assessment referred to by the certificate of composition shall have been made, shall be received by them as cash in satisfaction of the condition of such certificate, and allowed to them in their accounts with the receiver-general and his deputy, as aforesaid."

Sect. 12. "That the assessors acting in the execution of the acts in relation to assessed taxes, shall, as soon after the passing of this act as can conveniently be done, give such notice of this act to all and every persons and person charged to the said duties, or any of them, for the year ending the fifth day of April, 1819, as the commissioners for the affairs of taxes shall devise and direct, or leave the same at their, his, or her dwelling-house, or place of residence, or on the premises, charged by the said assessment within the respective limits of such assessors; together with a printed form, to be used in applying to the commissioners of the respective divisions by all persons desirous of compounding for their assessed taxes under this act, in such form as shall be devised and directed as aforesaid; and all and every persons and person desirous of so compounding, shall distinguish, on such form, the additional rate at which they, he, or she, are or is desirous to compound, and shall sign the same with their, his, or her Christian and surnames or surname, in their, his, or her usual manner of writing the same, and cause the same to be delivered, free of charge, to the clerk of the commissioners of the division wherein the said assessment hath been made; and the said clerks by whom such forms shall be received, shall number the same progressively, and file the same, and with all

50 Geo. 3, c. 51.

Bank to open an account with commissioners of the treasury.

Cashiers to receive compositions, and to enter same in said account.

Persons paying the annual compositions in advance, to receive a discount of *3l. per cent. per annum*.

Certificates of the Bank received by collectors as cash.

Assessors to deliver the prescribed notices to all parties assessed in the last year; together with a printed form.

Persons desirous to compound, to send applications to clerks of commissioners; who are to summon commissioners to take the applications into consideration.

59 Geo. 3, c. 51.

Surveyors to examine assessments for the last year on persons applying to compound, and their returns for the present year; and in certain cases may certify their objections to commissioners.

In what cases composition may be rejected.

Doubts may be referred to commissioners for taxes, &c.

Half of the composition to be paid in ten days.

Time of entering into compositions limited.

Clerks to prepare the certificates of composition, to be signed by the commissioners and parties compounding; and give notice to parties to attend.

convenient speed, shall mark the assessments on which such compositions are to be made, and shall summon the commissioners of their respective divisions to meet at the usual place of meeting on some convenient day, not later than ten days after they shall have received notice of any such application to compound; and the said commissioners shall meet at their usual place of meeting within the time fixed by such summons, to take the applications then made into consideration, and so, from time to time, as often as such applications shall be made, and at such times as they shall deem necessary for the due execution of this act."

Sect. 13. "That the surveyors appointed under the acts relating to assessed taxes, shall, before any certificate of composition shall be executed by the said respective commissioners, as herein mentioned, carefully and diligently inspect and examine each and every application to compound, made under this act, and also the assessments made on the persons or person so applying for the year ended on the fifth day of April, 1819, and also the returns of the same persons or person delivered under the said acts for the present year, commencing from the said fifth day of April; and if such surveyor shall, on such inspection and examination, find or discover that any persons or person who shall have applied to compound, hath removed from the dwelling-house charged in the last assessment, or hath returned any additional establishment as chargeable for the present year, so as to increase the amount of their, his, or her assessment for the present year, beyond the amount charged in the preceding year, or hath not made any return, or hath made an undue return for the present year, it shall be lawful for the said surveyor, and he is hereby required, to certify the same in writing by him to the said commissioners, with his objections; and no composition shall be entered into in respect of the dwelling-house from which the persons or person applying to compound have or hath removed; nor with any persons or person who have not nor hath made a due return of all articles, matters, and things chargeable upon them, him, or her, for the present year, and in case such due return shall have been made, then no such composition shall be entered into, without adding to the amount of the last year's assessment the additional establishment chargeable under the said acts in the present year, and calculating the additional rate payable under this act on such aggregate amount; and if any doubt shall arise, whether a composition may be made under this act, according to the provisions thereof, it shall be lawful for the respective commissioners to refer the matter in doubt to the commissioners for the affairs of taxes, or to such commissioners as his majesty shall appoint for that purpose, or any two of them, who shall return their opinion to the said respective commissioners, who shall act according to such opinion."

Sect. 14. "That upon every composition entered into under this act, after the first day of October, 1819, there shall be paid one moiety of the annual amount payable on the same, within ten days after the date of the certificate of composition; and no such composition shall be entered into after the thirty-first day of the same month, nor after the persons or person applying for the same shall have received a notice of an increased charge upon their, his, or her return of articles chargeable for the present year, from the surveyor of the district in which such return shall be made; nor after any appeal from the amount of the first assessment charged on the persons or person so applying to compound for the present year, which shall be made conformable to the returns of the persons or person so applying."

Sect. 15. "That, upon all applications to compound under this act, which shall not be objected to by the surveyor, as aforesaid, the clerk to the said respective commissioners shall carefully and diligently compute and ascertain the amount of duty charged in the said last assessments, and shall prepare and fill up a certificate of the composition to be made thereon, on which the additional rate is by this act directed to be charged; and whenever the applications to compound which have been objected to by the surveyor, as aforesaid, shall have been conceded to by the said respective commissioners, the said clerk shall, in like manner, from time to time, compute and ascertain the amount of duty whereon the additional rate is by this act directed to be charged, and pre-

pare and fill up a like certificate; and shall from time to time give notice to the persons or person so applying to attend the said commissioners, to sign and execute the said respective certificates; and every such certificate shall be made in three parts, with counter checks, and severally signed by the said commissioners, or any two or more of them, and by the persons or person compounding, in the presence of their clerk, or his assistant, who shall attest the same; and two of the said parts shall be cut off indentwise from the third part, and from each other, one of which shall be delivered to the persons or person compounding, and the other thereof transmitted to the office of the commissioners for the affairs of taxes, and the third shall remain with the commissioners executing the same; and all such certificates shall be made in the form to this act annexed."

20 Geo. 3, c. 51.

Certificates made in three parts.

Sect. 16. "That the several sums payable under or by virtue of any composition to be made under this act shall be raised, levied, and accounted for, under the provisions and regulations of this act, and any act or acts in force at the time of passing this act, in relation to the duties of assessed taxes, or of any act or acts to be passed in this session of Parliament; and this act shall be construed in such manner, and to the like effect, as if the several provisions in the said acts in force, as aforesaid contained, for raising, levying, paying, and accounting for the duties of assessed taxes, were expressly enacted in this act, except where other provisions are made under this act, for paying the said several sums contained in the compositions under this act, or shall be made under any act or acts to be passed in the present session of Parliament; and all and every the powers, authorities, directions, clauses, matters, and things, contained in such acts in force, as aforesaid, for levying, paying, and accounting for the duties of assessed taxes, shall severally and respectively be observed, practised, and put in execution, throughout the respective parts of England and Scotland respectively, as fully and effectively, to all intents and purposes, as if the same powers, authorities, directions, clauses, matters, and things, were respectively repeated and re-enacted in this act, and shall severally be applied, construed, deemed, and taken to belong to this act, in like manner as if the same had been enacted therein, and expressly applied to the monies to be raised, paid, and accounted for, under the compositions authorized by this act."

Composition-monies to be raised under the provisions of acts relating to assessed taxes.

Sect. 17. "That all and every the persons or person who now are or is, or for the time being shall be, commissioners for putting in execution the said acts in relation to the assessed taxes, and who shall be respectively qualified and authorized to act in the execution of the said acts, and shall have taken the oaths directed thereby, shall be commissioners for putting in execution this act, and the powers referred to or contained in all and every the respective counties, ridings, cities, boroughs, cinque-ports, towns, and places, privileged or not privileged, within England, Wales, and Berwick-upon-Tweed, and in all and every the shires, stewtries, cities, and boroughs in Scotland; and the several assessors, collectors, and clerks, respectively appointed or to be appointed to put in execution the said acts, and the several surveyors, inspectors, and inspectors-general, respectively appointed or to be appointed under or by virtue of the said acts, within the limits of their respective jurisdictions to which they are or shall be respectively appointed, shall respectively be assessors, collectors, clerks, surveyors, inspectors, and inspectors-general, to put in execution this act, according to the powers respectively given to them by this act, and they respectively are hereby empowered and required to do all things necessary for putting this act in execution, with relation to the compositions to be made, and the monies to be raised under this act, in the like and in as full and ample a manner as they or any of them are or is authorized to put in execution the powers of the said acts, in so far as the said powers are respectively applicable to this act; and all the monies to be raised under this act shall be under the care and management of the commissioners for the affairs of taxes, appointed or to be appointed by his majesty, his heirs or successors."

Commissioners acting under assessed tax-acts, to be commissioners to act in execution of this act.

Other officers appointed under the same acts to execute this act.

Sect. 18. "That it shall be lawful to and for the commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, to allow such additional salaries to the several surveyors to be employed in the execution of this act, and otherwise in relation

Treasury to allow additional salaries to surveyors, and discharge incidents.

59 Geo. 3. c. 51.

Receivers-general and collectors to have poundage as under 48 Geo. 3. c. 55. (a)

Clerks to have poundage as under 48 Geo. 3. c. 55.

All assessments to cease, except as before excepted.

Clerks to make out abstracts of composition under hand of commissioners, for collectors to collect by.

If compositions not duly paid, collectors may distrain for arrears, with 1s. in the pound for their own use, and all costs and charges.

Commissioners to include in their parchment duplicates of assessed taxes, the amount of the composition-moneys.

surveyors, and also of the inspectors and inspectors-general, as shall necessarily thereto, and also to discharge such incident charges and expenses of the said attend the execution of this act, as the said commissioners of the treasury, or any three or more of them, or the high treasurer for the time being, shall think fit and reasonable in that behalf; and every receiver-general and collector shall annually, during the continuance of this act, have and be entitled to have the like poundage for what money they shall respectively pay or account for under this act, as they or he would have been entitled to under the said act of the forty-eighth year of the reign of his present majesty, for the like amount of assessed taxes paid by them respectively; and that for the careful preparing, writing, and transcribing all and every the certificates of composition, duplicates, warrants, and estreats, in due time, and for the due, speedy, and effectually executing all matters and things directed to be done or performed by or under the commissioners acting in the execution of this act, the clerk of the said respective commissioners who shall perform the same within the times limited by this act, or by the said acts in force at and immediately before the passing of this act, shall have and receive from the receiver-general at the same times, and under the same conditions and restrictions, the like poundage on the amount compounded for under this act, as he would have been entitled to have and receive under the said act of the forty-eighth year aforesaid, for the like amount of assessed taxes."

Sect. 19. "That, from and after the date of any certificate of composition made under this act, and during the continuance of the same in force, all assessments under the said acts shall cease with respect to the persons or person so compounding, except as hereinbefore is excepted; and three abstracts of all and every certificates and certificate of composition shall, within ten days after the first day of October in the present year, and in each subsequent year during the continuance of any compositions under this act, within one calendar month after the fifth day of July in such year, be prepared by the clerk to the commissioners who have executed the said certificates, in such form as shall be devised and directed by the commissioners for the affairs of taxes; and the said commissioners, or any two or more of them, shall yearly set their hands to the said abstracts, and deliver, or cause to be delivered, one of the said abstracts of such certificates, together with warrants, under the hands and seals of two or more of the said commissioners for collecting the same, unto the persons respectively who shall be appointed to collect the assessed taxes for that year, and one other of the said abstracts to the surveyor of the district for the time being, and the third of the said abstracts to be kept by such clerk for the use of the said commissioners; and, in case the respective collectors shall not receive the sums payable on the certificates of composition with which they are respectively entrusted, according to the said abstract delivered to them respectively, or the receipt of the receiver-general or his deputy, or the certificate of the cashier of the Bank of England, acknowledging the payment thereof, at or before the times mentioned in their warrants, it shall be lawful to and for such collector and collectors, or any of them, and they are hereby required, forthwith to distrain for the same, together with 1s. for every 20s. of the amount in arrear, to their or his own use, and all reasonable costs and charges attending the same, in such manner and form as they might distrain for the duties of assessed taxes arising by virtue of the said acts, and to levy and raise the same under the like powers and authorities as collectors are authorized to use in and for the recovery of the said duties."

Sect. 20. "That the respective commissioners aforesaid shall cause the amounts of the sums to be raised by such compositions in each parish, ward, and place, within their respective divisions, to be inserted in their annual duplicates of assessments of assessed taxes on parchment, in a column to be prepared thereon for that purpose, under the head of 'Taxes Compounded for,' in like manner as if the same amounts had been severally charged by assessment under one schedule of the said acts, in the same parish, ward, or place; and

(a) Part of this section repealed, as to poundage to receiver-general. 3 Geo. IV. c. 88, s. 1.

IV. Of Compounding for Assessed Taxes.

851

50 Geo. 3. c. 51.

shall place the respective amounts payable in each parish, ward, or place, opposite the names of the collectors of the same parish, ward, or place, that the several collectors, and each parish, ward, or place, may be answerable for the same amounts, as if the same had been to be raised by assessment under the said acts."

Sect. 21. "That the monies arising by the compositions entered into under this act (the necessary charges of raising and accounting for the same excepted), shall from time to time be paid into the receipt of his majesty's Exchequer at Westminster, to the account of assessed taxes, and shall be carried to and made part of the consolidated fund of Great Britain."

Composition-monies carried to consolidated fund.

Sect. 22. "That this act may be varied, altered, or amended, by any act or acts to be made in the present session of Parliament."

Act altered, &c. this session.

"SCHEDULES to which this Act refers.

"No.



"Know all men, that we, of the commissioners acting in the execution of the acts in relation to assessed taxes, for the division of , in the , have contracted and agreed with , of , in the said county and division, in pursuance of an act passed in the 59th year of George the Third, for the composition of assessed taxes, chargeable upon , at and for the annual sum of £

being the amount of the said assessment, and an additional rate of pounds per centum per annum thereon, amounting together to the sum of £ , to be paid in to the receiver-general of the said division by two instalments:

Viz., 1st instalment, on or before the 1st day of October,

2d instalment, on or before the 1st day of April,

in each year, during and until the full end and term of three years, commencing on the 5th day of April, 1819.

"The condition of the above composition is, that the above-named shall duly pay, or cause to be paid, to the receiver-general of the said division, or his lawful deputy, or one of them, on or before the days before mentioned, without demand, the yearly sum of £ , by two instalments, in even portions, taking his receipt for the same on each payment, and delivering the said receipts to , the collectors of , or one of them, in discharge of such payment; otherwise the said composition shall be levied of the goods and chattels of the said , or otherwise, as the said act directs.

"Signed,

} Commissioners of the within Division.

"Witness,

"Clerk to the said Commissioners.

The party hereto."

"No.



"Know all men, that we, of the commissioners acting in the execution of the acts in relation to assessed taxes, for the division of , in the , have contracted and agreed with , of , in the said county and division, in pursuance of an act passed in the 59th year of George the Third, for the composition of assessed taxes, chargeable upon , at and for the annual sum of £

being the amount of the said assessment and an additional rate of pounds per centum per annum thereon, amounting together to the sum of £ , to be paid into the Bank of England by two instalments:

Viz., 1st instalment, on or before the 1st day of October,

2d instalment, on or before the 1st day of April,

in each year, during and until the full end and term of three years, commencing on the 5th day of April, 1819.

"The condition of the above composition is, that the above-named shall duly pay, or cause to be paid, to one of the cashiers of the Bank of England, on or before the days before mentioned, without demand, the yearly sum of £ , by two instalments, in even portions, taking the certificate of

59 Geo. 3, c. 81.

the said cashier for the same on each payment, and delivering the said certificates to the collectors of , or one of them, in discharge of such payment; otherwise the said composition shall be levied of the goods and chattels of the said , or otherwise as the said act directs.

"Signed,

} Commissioners of the
within Division.

"Witness,

"Clerk to the said Commissioners.

The party hereto."

No.



"Know all men, that we, of the commissioners acting in the execution of the acts in relation to assessed taxes, for the division of in the , have contracted and agreed with , of in the said county and division, in pursuance of an act passed in the 59th year of George the Third, for the composition of assessed taxes, chargeable upon

, at and for the annual sum of £ , being the amount of the said assessment and an additional rate of pounds per centum per annum thereon, amounting together to the sum of £ to be paid in to the collectors of the said by four instalments:

Viz., 1st instalment, on or before the 5th day of July;

2d instalment, on or before the 10th day of October;

3d instalment, on or before the 5th day of January;

4th instalment, on or before the 5th day of April;

in each year, during and until the full end and term of three years, commencing on the 5th day of April, 1819.

"The condition of the above composition is, that the above-named shall duly pay, or cause to be paid, to the collectors for the said , or one of them, on or before the days before mentioned, without demand, the yearly sum of £ , by four instalments, in even portions; otherwise the said composition shall be levied of the goods and chattels of the said , or otherwise, as the said act directs.

"Signed,

} Commissioners of the
within Division.

"Witness,

"Clerk to the said Commissioners.

The party hereto."

1 Geo. 4, c. 72.

By the 1 Geo. IV. c. 73, s. 1, after reciting, that, "whereas, by an act passed in the fifty-ninth year of the reign of his late majesty King George the Third, intituled, 'An Act to relieve Persons Compounding for their Assessed Taxes from an Annual Assessment for the Term of Three Years,' from the sixth day of January, 1820, all persons assessed to the said duties for the year ending the fifth day of April, 1819, were enabled to compound for the same, on the terms and conditions therein contained, with the respective commissioners for executing the acts relating to the said duties, at any time on or before the thirty-first day of October, 1819: and whereas the commissioners for executing the said acts in several districts have executed and delivered contracts of composition after the said thirty-first day of October, 1819, and in other districts have received from persons desirous of compounding or entitled to have compounded before the said thirty-first day of October, 1819, offers to compound under the terms and conditions of the said act, but may not have executed the same; and it is expedient that all compositions which have been so entered into after the thirty-first day of October, 1819, should be confirmed, and that the time should be extended for completing certificates of composition upon offers to compound under the terms and conditions of the said act, which were delivered to the said commissioners, or their respective clerks, under the regulations of the said act, on or before the thirtieth day of November, 1819:" it is enacted, "that all certificates of composition which have been entered into and signed by the said respective commissioners and the parties compounding, at any time after the said thirty-first day of October, and on or before the thirtieth day of November, 1819, shall be, and the same are hereby declared to be confirmed and valid, and of the like force and effect, and subject to the like powers and conditions for payment, as if the same compositions had been

Certificates of compositions entered into by commissioners on or before Nov. 30, 1819, confirmed.

made and entered into within the time limited by the said act; and all and every person or persons, commissioners and others, who shall or may have been in any manner concerned in advising or assenting to or executing such compositions, in such cases, and in such manner, and under the like circumstances as hereinbefore mentioned, shall be, and they and every of them are and is hereby fully and effectually indemnified for so doing."

Sect. 2. "That in every case wherein the said respective commissioners have received any offer to compound after the said thirty-first day of October, and on or before the said thirtieth day of November, 1819, and may not have completed the contracts of composition before the passing of this act, it shall be lawful for the said respective commissioners, being satisfied that the party so offering to compound was entitled to compound before the day limited by the said act as aforesaid for that purpose, and they are hereby authorized and required, to enter into composition with such person or persons respectively, according to the provisions of the said act and of this act; provided the certificates of such compositions respectively shall be executed by the said commissioners and the party so compounding on or before the thirty-first day of December, 1820; and which certificates of composition, when executed by the said commissioners, or any two or more of them, and by the party aforesaid, in the manner by the said act directed, shall be of the like force and effect, and subject to the like powers and conditions for payment, to all intents, as if the said composition had been entered into within the time by the said act limited as aforesaid; anything in this act contained to the contrary notwithstanding."

Sect. 3. "That where any person or persons assessed in the year ending on the fifth day of April, 1819, for a carriage or carriages with four wheels, as described in the schedule marked (D.), No. 1, of the acts relating to assessed taxes, shall have entered into composition for the same under the said act, or shall enter into composition for the same under this act, and not for a carriage with less than four wheels, as described in the schedule marked (D.) No. 2, of the said acts, it shall be lawful for such person or persons to set up, keep, and use, during the period of three years, limited by the said act of the fifty-ninth year aforesaid, any such carriage or carriages with less than four wheels, free of duty; and where any person or persons shall in like manner have been assessed and compounded for any such carriage or carriages with less than four wheels, and not for any such carriage with four wheels, it shall be lawful for such person or persons to set up, keep, and use, during the like period of three years, any such carriage or carriages with four wheels, free of duty; and where any person or persons shall have been so assessed for any male servant as described in the schedule marked (C.), No. 1, of the said acts, and shall have compounded for the same under the said act of the fifty-ninth year aforesaid, or shall compound for the same under this act, it shall be lawful for such person or persons, during the period of his, her, or their respective compositions, to retain, keep, and employ any male person or number of male persons described in any other schedule marked (C.), No. 2, or No. 3, of the said acts, free of duty; and where any person or persons shall have been so assessed in respect of any horse, mare, or gelding kept for the purpose of riding, or drawing any carriage chargeable with duty, as described in the schedule marked (E.) of the said acts, and shall have compounded for the same under the said act of the fifty-ninth year aforesaid, or shall compound for the same under this act, it shall be lawful for such person or persons, during the period of his, her, or their respective compositions, to keep any horse, mare, or gelding, not exceeding the height of thirteen hands, and used for the purpose of riding, or drawing any carriage last aforesaid, free of duty granted by an act passed in the fifty-ninth year of the reign of his late majesty; and where any person or persons shall have been so assessed in respect of any greyhound chargeable with the duty of 20s., or any hound, pointer, setting-dog, lurcher, terrier, or other dog chargeable with the like duty of 14s., in and by the schedule marked (G.) of the said acts, and shall have compounded for any such dog under the said first-mentioned act of the fifty-ninth year aforesaid, or shall compound for the same under this act, it shall be lawful for such person or

1 Geo. 4, c. 73.

Commissioners may contract upon offers to compound made on or before Nov. 30, 1819, provided the certificates of contracts are executed before Dec. 31, 1820.

Proviso for persons entering into compositions for four-wheel carriages,

and for persons compounding for carriages with less than four wheels,

and for persons compounding for male servants to the higher duty, and for persons compounding for horses,

and for persons compounding for dogs,

1 Geo. 4, c. 72.

and for persons
so compounding
in respect of arti-
cles free of duty.

Proviso for effec-
tive members of
volunteer corps
of yeomanry as
to the duty on
horses.

Persons com-
pounding in Eng-
land or Ireland,
to have the like
relief on removal
from double as-
essment, as is
provided by 61
Geo. 3, c. 72, in
respect to annual
assessments.

Compositions for
taxes in one dis-
trict of persons
assessed else-
where, confirmed.

Indemnity to
parties;

and, upon certi-
cate, discharges
in other districts
allowed.

Compositions for
houses and win-
dows and other
assessed taxes in
one contract con-
firmed;

persons, during the period of his, her, or their composition, to keep any dog or dogs, or any number of such dogs, of any of the descriptions aforesaid, chargeable with the same duties of 20s. and 14s. respectively, or either of them, free of duty; and all and every such person and persons respectively so compounding or having compounded as aforesaid, and who is or are hereby authorized to keep or use any article or articles herein described free of duty, shall be freed and exonerated from all assessments under the said acts relating to assessed taxes, as fully and effectually as he, she, or they would have been, if the said article or articles had been of the same description, and included in the same schedule of the said acts, with the article or articles on which the composition shall have been or shall be made; anything in the said first here-mentioned act of the fifty-ninth year aforesaid contained to the contrary notwithstanding."

Sect. 4. "That all and every persons and person, being respectively effective members of any volunteer corps of yeomanry, who shall have compounded for their assessed taxes under the said act, or shall be entitled to compound for the same under this act, shall, from and after the fifth day of April, 1819, during the continuance of such composition, be entitled to the like exemptions, in respect of their or his horse or horses used in the said corps, as they respectively would have been entitled to in case no such composition had been entered into, and whether such composition shall include any assessed horse or horses or not; and also, during the continuance of such composition, shall be entitled to the like privileges and immunities in respect of any additional horse or horses by them or him kept as aforesaid, as they or he would have been entitled to, had such composition been entered into in respect of one or more assessed horse or horses, in the cases, and in the manner, and subject to the conditions contained in the schedule annexed to this act."

Sect. 5. "That the yearly sum payable on any composition entered into in Great Britain on removal of the person so compounding to Ireland, and the yearly sum payable on any composition entered into in Ireland on removal of the person so compounding to Great Britain, shall severally and respectively be deemed, received, and taken in Ireland and Great Britain respectively as a yearly assessment to the amount of duty payable on servants, horses, and carriages respectively in that part of the United Kingdom in which such composition was entered into, and which the party might by virtue thereof keep and use."

Sect. 6. "That every composition entered or to be entered into by commissioners of districts, in which the amounts of taxes compounded for have been assessed wholly or in part out of the jurisdiction of the commissioners, parties to the said composition, is declared to be as valid and effectual as if the whole amount of taxes contained therein had been assessed by them, anything in the said act contained to the contrary notwithstanding; and all assessments out of the said district included in the said certificate of composition shall be discharged in the respective districts where the same were made by the commissioners acting for the same respectively, on the certificate of the commissioners by whom the composition was entered into; and all discharges heretofore made for the same cause are hereby declared to be valid, and all commissioners, officers, and other persons who have acted in directing or discharging the same assessments, are hereby indemnified in so doing; provided that in every case of composition to be executed after the passing of this act, two of the commissioners for the affairs of taxes shall, by their certificate, countersigned by their secretary, certify the same to the commissioners of the respective districts in which such composition shall be intended to be made, and in which the taxes shall be assessed, and upon such certificates being transmitted to the respective commissioners aforesaid, they are hereby respectively required to enter into such composition, or to vacate and discharge such assessments accordingly."

Sect. 7. "And whereas by the said first-recited act, passed in the fifty-ninth year aforesaid, it is directed that the duties on inhabited houses and on windows and lights contained in the schedules marked (A.) and (B.); or either of them, in the acts relating to the assessed taxes, shall be compounded for,

IV. Of Compounding for Assessed Taxes.

855

separate and distinct from all and every the other duties therein mentioned, by reason that, on the removal of the person compounding for the dwelling-house in respect of which the duties in the said schedules shall have been compounded for, the composition in respect of the said dwelling-house is directed to cease and determine on the fifth day of April next after such removal: and whereas in some cases the commissioners of certain districts have allowed persons to compound for all the said duties in and by one certificate of composition, without distinguishing the said respective duties; be it further enacted, that in all such cases last mentioned it shall be lawful for any two commissioners acting for the division in which such certificate of composition shall have been entered into, and they are hereby required, to certify, by indorsement on such certificate, and also in the abstracts of such compositions, the particular duties charged in respect of such dwelling-house under the schedules (A.) and (B.) aforesaid, with the amount of the composition thereon, and to distinguish the same from the rest of the duties so compounded for, with the instalments payable on each description of duty, in like manner as if the same had been compounded for under separate certificates of composition; and the same certificates of composition shall be enforced under the powers of the said act and this act, in respect to all or any part of the respective instalments thereby payable under the provisions of the said act or this act; and all and every such certificates of composition shall be, and the same are hereby declared to be, as valid and of the same force and effect in respect to the continuance of the composition for each description of duty, and enforcing the payment of the same under the powers of the said recited act or of this act, to all intents and purposes, as if such composition for the duties on houses and windows had been made separate and distinct from the remainder of the said duties compounded for by such certificate under the provisions of the said act."

Sect. 8. "That where, by absence, sickness, or other reasonable cause, persons who have given notice to compound under the said recited act passed in the fifty-ninth year aforesaid, may have been prevented from signing their respective contracts of composition, but have paid or discharged one or more instalment or instalments due thereon, it shall be lawful for him, her, or them to sign such contract or contracts himself or herself, or by any agent or agents to be appointed for that purpose by him or her, in writing under his or her hand, duly attested and certified to the commissioners acting for the district in which such composition shall be made; and the appointment or authority for such agent to sign the said contract shall be free of any stamp duty, and the same being delivered to the commissioners of the said last-mentioned district, or their clerk, shall be a sufficient authority for the agent so appointed to sign such certificate or contract; and all contracts on which any instalment shall be paid, although not signed by the party, or his or her agent, shall be binding on him or her, as if the same had been duly signed under the provisions of the said act; and in all cases where certificates of composition prepared on notices by the parties compounding under the said recited act or this act, shall not be signed by such parties or their agents, and any instalment or instalments shall not be paid thereon for the space of eight months after the passing of this act, such certificates of composition shall be null and void, and the several commissioners in the respective districts are hereby authorized and required to restore the assessment on such persons in respect of which such certificates of composition were prepared and intended to be made, and to cause the same to be levied and collected to all intents and purposes as if notices of such composition had not been given by the persons so intending to compound and neglecting to complete their compositions as aforesaid; and if any such composition, or any portion thereof, shall have been made on an assessment out of the jurisdiction of the commissioners parties to the said composition, then such commissioners shall certify the same to the commissioners for the affairs of taxes, with the amount of the taxes so contracted for, and the district of assessment; and the said commissioners for the affairs of taxes are hereby required to certify the same to the commissioners of the district of assessment, who shall, on receipt thereof, cause the said assessments to be

1 Geo. 4, c. 73.
and the commissioners to distinguish the proportions of duty by indorsement on the certificate.

Contracts entered into by party, having paid instalment but not signed, may be signed by agent.

Such contracts binding, though not signed.

In what cases, where certificates prepared but not signed, such certificates void; and assessments restored and levied.

1 Geo. 4, c. 73.

In default of payment of instalments, and of the collector to levy, a schedule of arrears to be given in.

The certificates of such schedule to be ground of process.

Costs.

Rules in schedule deemed part of act.

Act may be altered, &c. this session.

restored, as well for the year in which the composition was made, as for the subsequent and all future years, and collected together with the other assessed taxes, as if notice of such composition had not been given as aforesaid."

Sect. 9. "That, in default of payment of the respective instalments on any composition entered or to be entered into under the provisions of the said recited act or of this act, on the respective days of payment specified in the respective certificates of contracts for such compositions, and of neglect of the respective collectors to distrain for the same under the warrant of the commissioners, it shall be lawful for any such collector, and he is hereby required, immediately upon any such default in payment of any such instalment, to deliver or cause to be delivered to the commissioners acting for the district in which such composition shall have been made, or to the receiver-general acting for the said duties, or his deputy, a schedule in writing, containing the particulars of such default, with an affidavit subscribed and verified by such collector before any commissioner acting for the said duties, that the amount of such instalment or instalments to be contained in such schedule is or are due and unpaid to such collector, or to any other person for him, to the best of his knowledge and belief; and every such schedule, being certified under the hand of the receiver-general, or his deputy, of the county or division where the said arrears accrued, to the Court of Exchequer at Westminster, shall be received and taken as sufficient evidence of a debt due to his majesty, and shall be a sufficient authority to the barons of the said court, or any one of them, to cause process to be issued against such defaulter named in the said schedule, to levy the whole sum in arrear and unpaid by such defaulter; and the sheriff or other officer to whom the said process shall be directed, shall without delay cause the whole sum in arrear to be levied by due course of law, as a debt to his majesty on record, with all costs and expenses attending the same, and shall pay the monies so levied, after deducting the said costs and expenses, to the said receiver-general or his deputy, and shall make return of the said process to the said court, according to the due course thereof."

Sect. 10. "That the provisions and rules contained in the schedule herewith annexed, shall severally be deemed a part of this act, as if each provision and rule had been inserted herein under a special enactment."

Sect. 11. "That this act may be varied, altered, or repealed by any act to be made in the present session of Parliament."

"The SCHEDULE (A.) to which this Act refers.

"CASES OF RELIEF to Effective Members of Corps of Yeoman Cavalry."

"First Case.—Every effective member of any such corps, who at the time of entering into, or giving notice to enter into composition for his assessed taxes under the said acts, or either of them, who shall not by reason of such service have been assessed for any horse, mare, or gelding, in the year ending the fifth day of April one thousand eight hundred and nineteen, shall be entitled to and may exercise the like privileges in keeping and using more additional horses, mares, or geldings, free of duty, during the time he shall continue such effective member, and shall use or provide such horse, mare, or gelding, horses, mares, or geldings, in such service, as if such member had been assessed, and made composition for the same horse, mare, or gelding, or horses, mares, or geldings, on payment annually of one shilling for every twenty shillings of the duty so exempted."

"Second Case.—Every effective member of any such corps, who shall keep one horse, mare, or gelding, and no more, and who hath not been assessed for any other article mentioned in the acts relating to assessed taxes (his dwelling-house excepted), may, within three calendar months after the passing of this act, enter into composition in respect of such one horse, mare, or gelding, on payment annually of the sum of three shillings, computed from the fifth day of April one thousand eight hundred and nineteen, during the period of such composition, and his continuing in the said corps as such effective member."

"Third Case.—Every person who hath entered or shall enter into composition for his assessed taxes under the said act or this act, and who hath afterwards or shall become an effective member of any such corps, shall be entitled to the like exemptions for any horse, mare, or gelding used or provided by him, in like manner as if no such composition had been entered into by him; all which privileges

IV. Of Compounding for Assessed Taxes.

857

immunities, and exemptions shall be granted and allowed according to the following rules:—

1 Geo. 4, c. 73.

"First Rule.—The amount of compositions payable in pursuance of the provisions in the first of the said cases shall be ascertained and settled by two of the commissioners acting for the assessed taxes in the same district in which the composition shall have been made, and certified by them under their hands by indorsement on the certificate or contract of such composition, on the production thereof, and of the certificate of effective service, as provided by the said acts relating to the assessed taxes, and which certificate the said commissioners for their respective districts are hereby required and authorized to indorse and sign accordingly; and the sum so charged and added to the amount of the said composition in and by such certificate, and to the abstract thereof, shall and may be levied and recovered by the same instalments and in like manner as the amount of composition inserted in the body of the said contract, and in addition thereto."

"Second Rule.—The amount to be charged in the second case before mentioned shall be inserted in each annual assessment for the same parish or place in which the exemption shall have been claimed, and shall be connected therewith, and levied and accounted for as in other cases of assessed taxes."

"Third Rule.—The respective commissioners acting in the execution of the said acts in their respective districts, shall and are hereby authorized and required, on the production of the certificate of effective service for any one year, in the manner prescribed by the schedule marked (E.) in the acts relating to assessed taxes, and the certificate of contract and composition by such person or persons, by certificate under the hands of any two of the said commissioners, to be indorsed on the said last-mentioned certificate, to remit and deduct from the annual amount payable on such contract, but nevertheless for the particular year only in and for which such certificate of effective service shall have been produced, and such exemption shall have been acquired, a sum equal to the amount of duty for any such horse, mare, or gelding, horses, mares, or geldings, in respect of which such exemptions shall have been so acquired, and to discharge the amount from the abstract of composition prepared by the said commissioners, in like manner as they would have discharged the same from the annual assessment for such particular year of exemption, in case such compositions had not been entered into; and in all cases where such exemptions shall have been claimed and established for and in respect of the year ending the fifth day of April, 1820, and the instalments on such composition shall have been paid for that year, it shall be lawful for the said commissioners to certify the amount of duty so discharged by reason of the said exemption for the said year, with the cause thereof, to the commissioners for the affairs of taxes; and in that case it shall be lawful for the said commissioners to order and direct the receiver-general of the county, riding, or division, in which such composition shall have been entered into, to repay the same to the party, which order shall be an authority to such receiver-general to make such payment, and the same shall be allowed in his accounts."

By the 1 & 2 Geo. IV. c. 113, intituled, "An Act to continue several Acts for the Relief of Persons compounding for Assessed Taxes from an Annual Assessment for a further Term, and to amend the Acts relating to Assessments and Compositions of Assessed Taxes," it is enacted, "that the assessments made or to be made under and by virtue of the acts in force, at and immediately before the passing of this act, in relation to the duties on windows or lights and on inhabited houses; and the assessments made or to be made in like manner, in relation to such other of the duties of assessed taxes as may be comprised in any composition to be entered into under this act, for the year to end on the fifth day of April, 1822, shall severally be and remain to the same annual amount in respect of all and every the persons or person who shall compound for the annual payment of the said assessments under this act, for the term of six years, in respect of the said duties on houses and windows and lights, and for the term of five years in respect of the other assessed taxes, to be respectively computed from the fifth day of April, 1822."

Sect. 2. "That the several compositions entered into under the said recited acts, on the duties on windows or lights, and on inhabited houses, may be renewed under the provisions of this act for the term of six years, to be computed from the said fifth day of April, 1822; and the several compositions entered into under the said recited acts on the other duties of assessed taxes may, in

Assessments for the year ending 5th April, 1822, to remain to the same amount, if compounded for, in respect of the matters herein mentioned.

Compositions under former acts may be renewed, subject as herein mentioned.

1 & 2 Geo. 4,
c. 113.

What new contracts of composition are to contain.

Enumeration of articles to be compounded for under this act.

Persons assessed to duties on houses for year ending the 5th April, 1822, may compound on amount assessed in that year, paying an additional duty of 5*l.* per cent.

Exception as to taxes in respect of articles kept for trade, &c.

Compositions for duties on dwelling-houses to be renewed on the same terms.

respect of such of the said other duties as are herein enumerated, be renewed under this act for the term of five years, to be computed from the said fifth day of April, 1822, in the manner, and subject to the terms, conditions, and exceptions herein prescribed."

Sect. 3. "That every new contract of composition entered into under this act, in respect of a dwelling-house, shall contain in the body thereof a schedule of the number of windows or lights in the dwelling-house, and the annual rent or value thereof; and every such new contract entered into as aforesaid, in respect of the other duties of assessed taxes, shall contain in the body thereof the number of servants, carriages, horses, and other articles of each such establishment, as aforesaid; and the said several contracts shall be made according to the form set forth in the schedule to this act, *mutatis mutandis*."

Sect. 4. "That no composition shall be entered into or renewed under this act, for any duty or duties of assessed taxes, other than the duties on dwelling-houses mentioned in the schedules of an act passed in the forty-eighth year of the reign of his late majesty, marked (A.) and (B.); and the other duties of assessed taxes on the following articles, forming the establishments of the persons or person so compounding, and retained, employed, kept, and used for their, his, or her own use, and not for or to the use, benefit, or profit of any other person or persons, or to be lent or let to hire; viz. the duties on servants mentioned in the schedule of the said act, and in the schedule of another act passed in the fifty-second year of the reign of his said late majesty, marked (C.) No. 1, and No. 2; on carriages mentioned in the schedules of the said acts respectively, marked (D.) No. 1, No. 2, and No. 4; on horses, mares, and geldings, mentioned in the schedules of the said acts respectively, marked (E.) No. 1, and No. 3, and (F.) No. 1, whether such horses, mares, or geldings are subject to the rates mentioned in the said acts, or to any reduced duty by any subsequent act or acts; on dogs mentioned in the schedule of the said acts, marked (G.); on persons in respect of using or wearing hair-powder, mentioned in the schedule of the said act, passed in the forty-eighth year of his late majesty King George the Third, marked (I.); and on persons in respect of using or wearing armorial bearings or ensigns, mentioned in the schedule of the said last-mentioned act, marked (K.); and every such composition which shall comprise any other duty or duties than the duties enumerated, shall be void and of no effect in respect of such other duties, and for which the party shall be subject to assessment as if no such composition had been entered into, according to the laws in force relating to such assessments."

Sect. 5. "That all and every the persons or person not having compounded under the said recited acts, who shall be duly assessed for the year ending on the fifth day of April, 1822, to the rates and duties chargeable under the acts relating to assessed taxes, are and is hereby declared to be competent to compound for the rates and duties assessed on their, his, or her dwelling-house for the term of six years, and for their, his, or her other assessed taxes herein enumerated, for the term of five years respectively, to commence from the said fifth day of April, 1822, on the same amounts annually, as shall be assessed on them, him, or her for the year ending on the said fifth day of April, 1822, together with an additional annual duty of 1*s.* for every 20*s.* of the respective amounts so assessed, and so after that rate for any greater or lesser sum than 20*s.*, so as not to include in the said additional duty any fraction of 1*l.*"

Sect. 6. "That no composition shall be entered into or renewed under this act with any person in trade, in respect of any articles kept for the purpose of trade; nor shall any composition be entered into upon any assessment charged upon two or more persons in partnership in trade; nor shall any composition under the said recited acts, with two or more partners in trade be renewed under this act; nor upon any carriages, horses, mares, geldings, or other articles let or used for hire."

Sect. 7. "That all and every persons or person who shall have compounded for the duties on their, his, or her dwelling-house, and windows and lights, under the said recited acts, continuing to reside therein, are and is hereby declared to be competent to renew their, his, or her composition under this act, for the same dwelling-house, on the same amount, and under the same terms as:

IV. Of Compounding for Assessed Taxes.

859

conditions as are expressed in the contract of their, his, or her former composition."

1 & 2 Geo. 4,
c. 113.

Sect. 8. "That all and every persons and person, except as hereinafter is excepted, who have or hath compounded under the said recited acts for any of the other duties of assessed taxes herein enumerated, are and is hereby declared to be competent to renew their, his, or her former composition, as to so much and such part thereof as relates to the duties on the articles herein enumerated, on the amount of duty charged on the same articles, and comprised in the said former compositions respectively, together with the additional rate of duty of five *per centum* also charged therein in respect of the said articles, which several sums shall form the aggregate amount on which any such composition under this act may be renewed; and the terms and conditions of such renewal shall be a further duty of 1s. for every 20s. of the said aggregate amount, and so after that rate for any greater or lesser sum than 20s., so as not to include any fraction of 1d. in the said further duty; and the duties on articles not herein enumerated nor compounded for as aforesaid, shall continue to be assessed as if this act had not been made."

Compounders on the other assessed taxes may renew the same on the amount charged thereby, together with a further duty of 5*l.* per cent.

Sect. 9. "That all and every person or persons who are hereby declared to be competent to renew his, her, or their former composition under this act, and shall be desirous so to do, shall, on or before the fifth day of April, 1822, in England, and on or before the term of Whitsunday in the same year in Scotland, deliver or cause to be delivered to the commissioners of the district in which such person or persons shall reside, or to the clerk of such commissioners, the contract of his, her, or their former composition, or a true copy or certificate thereof, under the hands of any two of the commissioners acting for the division in which such contract was entered into, annexing thereto a notice according to the form in the schedule to this act annexed, declaring his, her, or their intention to renew the same; and in case the said composition shall include any articles not to be compounded for under this act hereinbefore enumerated, then and in every such case the person or persons so desirous of renewing his, her, or their composition, shall insert in such notice a schedule of the number of articles contained in such composition as are not to be compounded for; all which articles, and the amount of duty thereon, shall be excluded from such renewed composition, and it shall be lawful for the said commissioners to renew the same on the enumerated articles only, on the terms and according to the provisions of this act."

Persons desirous of continuing their former compositions, to deliver their contract or copy, with notice, before the 5th of April, 1822; and insert schedule of articles not to be compounded for (if any) in notice.

Sect. 10. "That if any person or persons having compounded under the said acts, shall have reduced his or their establishment since entering into such composition, whereby such person or persons may be chargeable with a lesser amount of assessed taxes for the year commencing the fifth day of April, 1822, than the duty compounded for, and shall by reason thereof be desirous of waving the said composition, and of entering into a composition *de novo*, it shall be lawful for him, her, or them so to do, upon giving notice in writing of such his, her, or their intention, to the surveyor of the said duties acting for the district in which such person or persons shall reside, within three calendar months after the passing of this act, annexing to such notice a full, true, and complete return or list of the greatest number of articles chargeable with duty, as kept and retained or employed by such person or persons respectively, after the fifth day of April, 1821, so that an assessment may be duly made for the year to commence from the fifth day of April, 1822, on all the articles chargeable for that year; and it shall be lawful for the commissioners (subject to the examinations in the manner hereafter provided for compositions with persons under this act, who shall not have compounded under the said recited acts), to enter into composition under the provisions of this act, with the person or persons giving the notices aforesaid, upon the amount of such assessment as aforesaid, with the additional duty granted thereon by this act, to all intents as if such persons had not compounded under the said former acts."

Persons having compounded and reduced their establishments, may compound *de novo*, on the assessment of 1822, on notice within three months, and a return annexed to notice.

Commissioners empowered thereon.

Sect. 11. "Provided always, that nothing herein contained shall be construed to empower any person to renew his or her composition in manner and under the conditions hereinbefore mentioned, who, since the commencement of the said composition, hath come into possession of any estate, real or perso-

Persons who, since compounding, have succeeded to estates and kept larger

1 & 2 Geo. 4.
c. 113.

establishments,
excepted from
benefit of re-
newal, but may
contract *de novo*
on next year's
assessment.

The like as to
persons who
have compounded
on a less amount
of duty than
ought to have
been included.

Persons assessed
to duties on
houses, and in-
creasing windows
in the same; also,
persons removing
into a dwelling-
house in that
year, and not
assessed there,
may compound
on assessment for
succeeding year.

Persons begin-
ning to keep, or
increasing an es-
tablishment in
1821, may com-
pound on assess-
ment of the suc-
ceeding year.

Proviso for ex-
clusion of articles
discontinued and
ceased to be
kept.

Renewed com-
position not to ex-

nal, upon the death of any person, by descent, gift, or settlement, or by virtue or in pursuance of any device or legacy, or under the statute for the distribution of estates of intestates, or by marriage, and hath thereupon retained any servants, carriages, horses, or other articles which may be comprised in any composition to be entered into or renewed under this act, or hath kept any servants, carriages, horses, or other articles aforesaid, of the same description and chargeable to the like duties by the acts relating to assessed taxes, to an extent exceeding the total amount of such composition in the sum of twenty-five *per centum*, in lieu and in place of the like articles kept by the person so dying, or any part thereof: provided that nothing herein contained shall be construed to authorize the said respective commissioners to contract for the renewal of any composition, under the terms and conditions last before mentioned, with any person who shall have compounded under the said recited acts on a less amount of duty than ought to have been included in such composition; but nevertheless it shall be lawful for the said respective commissioners in every such case, after any such person shall have made a *bona fide* return of the greatest number of servants, carriages, horses, and other articles of his or her assessed taxes, according to the laws in force relating to the said taxes, for the year to commence from the fifth day of April, 1822, in order to an assessment thereon for that year, and who shall be duly assessed for that year to his or her assessed taxes, to contract and enter into composition *de novo* with such person on the amount assessed for that year on him or her, in respect of the articles herein enumerated, together with the additional duty hereby granted on the amounts of other assessments compounded for under this act."

Sect. 12. "That all and every persons or person assessed to the duties on their, his, or her dwelling-house, for the year ending the fifth day of April, 1822, and who shall have opened or made, or shall open or make, any additional windows or lights in the same, after the fifth day of April, 1821, and having made such addition as aforesaid, who shall deliver a statement as hereinafter required, of the number of windows or lights opened or made in their, his, or her dwelling-house after the said fifth day of April, 1821; also, all and every persons or person who shall have removed or shall remove from their, his, or her dwelling-house, at any time within the year ending the fifth day of April, 1822, and shall not be assessed for that year for the dwelling-house into which they, he, or she shall have removed during that year, but who shall deliver a statement as aforesaid, of the number of windows or lights in such dwelling-house, and the rent or annual value thereof at which the same is chargeable to the said duties, are and is hereby declared to be respectively competent to compound for the said rates and duties on the amount chargeable on such dwelling-house in or by such assessment as shall be made thereon for the year commencing from the fifth day of April, 1822."

Sect. 13. "That all and every persons or person who shall have begun to keep, use, or employ any servants, carriages, horses, or other articles before enumerated, or any additional number thereof, in the year ending on the fifth day of April, 1822, and who shall deliver a statement as hereinafter required, of the number of servants, carriages, horses, or other articles aforesaid, so that an assessment may be duly made thereon for the year to commence from the fifth day of April, 1822, are and is hereby declared to be respectively competent to compound under this act, on the amount charged and by such assessment to be made for the said year, to commence on the fifth day of April, 1822, on the same terms and conditions as if the said persons or person had been so assessed for the preceding year."

Sect. 14. "That nothing in this act contained shall be construed to extend any composition under the same to any part of any increased establishment set up by any person or persons who hath or have compounded under the said recited acts, which shall, in pursuance of the said recited act of the fifty-ninth year of his said late majesty, or any other act, be discontinued and ceased to be kept in the manner provided by the said act, and which would not have been assessable on the said persons or person on the year to commence after the fifth day of April, 1822, by virtue of the said act."

Sect. 15. "Provided also, that nothing in this act contained shall be ex-

strued to extend any renewed composition under the same, to any articles of a different description than is authorized by the composition entered into under the said recited acts, which shall have been set up or kept since the making of the said composition, but every such person shall be assessed for the said articles, as if the said former composition had not been renewed; but nevertheless, it shall be lawful for any such person who shall have been assessed for the said additional articles for the year ending the fifth day of April, 1822, or shall be assessed for the same for the subsequent year, and who shall renew his or her former composition, also to compound for the said additional articles, on the amount of such assessment, and the additional rate granted by this act, by entering into a separate contract for the said articles so assessed."

Sect. 16. "That all and every persons or person who shall have compounded under the said recited acts for the articles of their, his, or her establishment, and shall have removed from the division where the former composition was entered into, and who shall be desirous to renew their or his or her composition, under this act, in respect of the same establishment, shall deliver to the commissioners of the division where they, he, or she shall reside, the contract of their, his, or her former composition, or a true copy or certificate thereof, under the hands of any two of the commissioners entering into the said contract, annexing thereto a notice according to the form in the schedule to this act annexed, declaring his, her, or their intention to renew the same; and it shall then be lawful for the said commissioners to renew the same, according to the provisions of this act, in like manner as if the said former composition had been entered into by the commissioners of the division where the same is intended to be renewed."

Sect. 17. "That all and every persons or person, entering into any composition according to the provisions of this act, and paying the amount of the sums compounded for at the times and in the proportions and in manner specified in the said recited acts and in this act, and doing and performing all other acts, matters, and things, required by the said recited acts, and this act, shall be entitled to the like privileges of opening, making, or keeping open, free of duty, after the fifth day of April, 1822, any additional number of windows or lights in the dwelling-house comprised in their, his, or her contract of composition, or of setting up or retaining and keeping, using, or employing, after the said fifth day of April, 1822, any additional article or articles, composing their, his, or her establishment, to and for their, his, or her own use, but not otherwise, as the persons compounding under the said recited acts are or were entitled to according to the provisions of the said acts, or either of them, and not otherwise provided by this act; and shall be exempt from all assessments on such additional windows or lights, and such additional article or articles of their, his, or her establishment, during the respective terms mentioned in such composition: provided always, that no persons or person, who shall compound under this act for the duties on any carriage with two wheels, and not on any carriage with four wheels, shall be entitled to set up, keep, or use any carriage with four wheels free of duty: provided also, that no person who shall compound for any dog or dogs other than hounds, shall set up or keep free of duty any hound or hounds; nor shall any person who shall compound for any less number of hounds than ten, set up or keep free of duty any additional number of hounds: provided also, that the privileges and immunities in this clause mentioned shall not extend to any dwelling-house not comprised in the said composition, nor to any article or articles of such establishment, specially excluded by this act from every composition to be made under the same, in which excepted cases, further or increased charges shall and may be made, and the fines, penalties, and forfeitures, incurred under any of the said acts relating to assessed taxes, shall and may be sued for, prosecuted, and recovered according to the provisions of the said several acts, as fully and effectually as if no such composition had been made under this act."

Sect. 18. "That the compositions to be entered into under this act for the duties on windows or lights, or on inhabited houses, although entered in the same contract, shall be deemed and construed to be separate and distinct contracts from the compositions entered into in respect of the duties on servants, carriages, horses, or other articles aforesaid, which may be compounded for

1 & 2 Geo. 4,
c. 113.

tend to articles
of a different de-
scription than
authorized by
former composi-
tion.

Composition for
additional arti-
cles.

Compounders
having removed
to another divi-
sion, may, on de-
livering former
composition,
compound there-
in.

Compounders en-
titled to the like
privileges of
opening win-
dows, or of in-
creasing their es-
tablishment, &c.
as under former
acts.

Exceptions.

Penalties, &c.
how sued for.

Compositions on
houses, &c. al-
though in same
contract, deemed
distinct composi-
tions.

1 & 2 Geo. 4,
c. 113.

Compositions on
the other assessed
taxes one con-
tract.

Scotland.

Persons assessed
in two or more
places to deliver
certificates of
amount; the
like as to those
who have com-
pounded in a dif-
ferent division
than where they
are entitled to re-
new.

Scotland.

Compositions on
houses may be
compounded for
without including
the other taxes,
and *vice versa*.

Compounders not
liable to penal-
ties of assessed
tax acts, except
penalty for con-
cealment to evade
assessment for
year ending 5th
April, 1822, or
other conceal-
ment to evade
amount of com-
position.

Persons not com-
pounding occu-
pying houses or
keeping articles
compounded for
by other persons,
or set up by other
persons under col-
our of the com-
position, held
liable to duty.

under this act; and every such composition for the duties on any dwelling-house, in respect of the windows or lights, or as an inhabited house, shall be entered into by and with the commissioners acting for the parish or place where such dwelling-house shall be situate, and not elsewhere; and every such composition, in respect of the servants, carriages, horses, or other chargeable articles, forming the establishment of the same persons or person in any part of England, shall be entered into by and with the same commissioners, and in one contract: and the like compositions in Scotland shall also be entered into by and with the same commissioners, and in one contract: provided, that all and every person or person who shall be assessed for any servants, carriages, horses, or other chargeable articles aforesaid, for the year ending the fifth day of April, 1822, in two or more places in Great Britain, or who shall be assessed for that year, shall have compounded under the said recited acts, in a different place than where they, he, or she, be entitled to compound under this act, shall and they are hereby respectively required to deliver or cause to be delivered to the commissioners to whom such application to compound shall be made, a certificate or certificates under the hands of the respective surveyors of the districts, where they, he, or she shall be so assessed or have compounded under the said recited acts, containing the particulars of such assessment or composition in every act or other division or place, according to such forms as shall be devised by the commissioners for the affairs of taxes pursuant to this act; and every composition entered into or renewed contrary to the provisions before mentioned, shall be vacated and made of no effect, by the judgment of the commissioners for the affairs of taxes, as to compositions made in England, and of the barons of the exchequer in Scotland, as to compositions made in Scotland, on due proof being shown to them by like certificate of any such assessment for the said year, or of any composition under the said recited acts, which respectively shall not have been certified to the commissioners, parties to any such composition, nor contained therein, unless it shall be proved to their satisfaction respectively, that the same has arisen by error or mistake; in which cases the said barons and commissioners for the affairs of taxes respectively may consent that a new composition shall be entered into, to take effect from the fifth day of April, 1822: provided always, that nothing herein contained shall be construed to preclude any person from compounding for the duties on their dwelling-house, without compounding for his or her other assessed taxes, and *vice versa*."

Sect. 19. "That all and every persons or person compounding as aforesaid under this act, shall be freed and discharged from any penalty or penalties contained in the said acts relating to assessed taxes, imposed on persons for non-performance of any matter or thing required by the said act or acts to be done by persons chargeable to the duties contained therein, during the term hereinafter limited, save and except that every such person who, in his or her returns, made under the acts relating to assessed taxes, shall conceal any servant or servants, carriage or carriages, horse or horses, or other article or articles herein enumerated, whereby he or she shall have escaped assessment for such servant, carriage, horse, servants, carriages, or horses, or other article or articles aforesaid, for the year ending the fifth day of April, 1822, or who in his or her statements, lists, and declarations, to be delivered under this act, shall conceal any such article or articles aforesaid, so that he or she shall not have caused the same to be comprised in his or her composition under this act, shall be liable to the like penalty as if such person had not compounded under this act, and had continued liable to assessment under the said acts relating to assessed taxes."

Sect. 20. "That if any person who shall not compound under this act shall, from and after the fifth day of April, 1822, occupy any dwelling-house, or retain or keep for his or her own use any article chargeable with any duty under the acts relating to assessed taxes, which hath been compounded for by any other person or persons, or which hath been set up, retained, used, employed, or kept by such other person or persons, under their, his, or her composition, or under colour or pretence thereof, the same dwelling-house or other article or articles aforesaid, continuing to belong to the person or persons so compounding, and which hath not been compounded for by the person so occupying the said dwelling-house, or retaining, using, employing, or keeping the said article or

articles chargeable as aforesaid, nor under his or her composition; every such person so occupying any dwelling-house, or retaining, using, employing, or keeping for his or her own use any such article as aforesaid, shall be liable to an assessment in respect of the said dwelling-house, during the time of his or her occupation thereof, and also in respect of any such article or articles aforesaid, in like manner and to the like amount as if the same dwelling-house or article or articles had belonged to him or her, and as if no composition had been made by such other persons or person; and on due proof before the commissioners that the same had been done with intent to defraud the revenue, every such person shall be assessed in treble the amount of duty payable as aforesaid."

Sec. 21. "That if any person shall by fraud or covin cause or procure the assessment on which any contract of composition shall be entered into under this act, to be made on a lesser amount of duty than ought to be charged on him or her, or by any the ways or means in this act mentioned, shall cause or procure any contract of composition under this act to be entered into, or any contract of composition entered into under the said recited acts to be renewed under this act, on a lesser amount of duty than ought to be included in the contract of composition under this act, every contract so entered into or renewed under this act shall be void and of no effect; and every person so offending shall forfeit and pay the sum of 50*l.*, to be sued for, recovered, and applied as any penalty contained in the said acts relating to assessed taxes may be sued for, recovered, and applied."

Sec. 22. "That no composition for assessed taxes shall be entered into or renewed under this act, with any person who shall have resided out of Great Britain before the passing of this act, for a temporary purpose only, and who shall have ceased to be assessed to the said duties, or shall have been assessed to a lesser amount during such his or her residence out of Great Britain, and who shall be assessed to the said duties on a lesser amount than he or she was assessed before his or her departure from Great Britain, for the said year ending the fifth day of April, 1822, nor with any person who shall be out of Great Britain at the time of executing this act."

Sec. 23. "That any person residing within Great Britain may, in cases of sickness or infirmity, or other reasonable cause, with the consent of the said respective commissioners, execute such contract in the presence of the collectors of assessed taxes, or one of them, acting for the parish or place where the person compounding shall reside, anything in the said recited acts or this act to the contrary notwithstanding: provided also, that every such collector shall testify the execution of such contract, by signing the same in the presence of the party so contracting: provided also, that any person duly assessed in Great Britain, for the year ending the fifth day of April, 1822, and entitled to compound under this act, but residing in Ireland at the time of executing the contract of his or her composition by the respective commissioners under this act, may execute such contract by his or her lawful attorney duly constituted, the said power of attorney being first delivered to the said respective commissioners for that purpose, which contract, so executed, shall be of the like force and effect as if the party compounding had personally executed the same."

Sec. 24. "That every composition entered into under this act, in respect of servants, carriages, horses, or other articles before enumerated, with any persons or person hereinafter described, shall cease and determine at the respective times hereinafter mentioned; (that is to say), if any person who shall compound under this act shall afterwards come into possession of any estate, real or personal, or become entitled to the rents or profits of any estate, real or personal, upon the death of any person, whether by descent, gift, or settlement, or by virtue or in pursuance of any devise or legacy, or under the statute for the distribution of estates of intestates, and shall thereupon retain any servants, carriages, horses, or other articles aforesaid, forming the establishment of the person so dying, or shall keep any other servants, carriages, horses, or other articles aforesaid of the same description, and chargeable to the like duties by the said acts relating to assessed taxes, in lieu and in the place of the like articles kept by the person so dying, or any part thereof, or who at any time after he or she shall come into the possession of or be entitled unto the

1 & 2 Geo. 4,
c. 113.

And where intent to defraud, penalty.

Procuring a contract to be entered into to a less amount than ought to be included, contract void, and penalty 50*l.*

Persons ceasing to be assessed, &c. during residence out of Great Britain, or residing out of Great Britain, not to compound.

In cases of sickness, or other reasonable cause, persons may sign contracts in presence of collector of parish, and persons residing in Ireland may execute contract by attorney.

Compositions with persons afterwards succeeding to estates and keeping larger establishments, to the extent of one-fourth on the amount compounded for, to cease;

1 & 2 Geo. 4.
c. 113.

so in case of coming into possession by marriage.

Proviso for composition *de novo* for remainder of term.

Commissioners and other officers acting under the former composition acts, to act in like manner in the execution of this act.

rents or profits of any such estate by any the means aforesaid, and during the term herein limited for the continuance of such compositions as last aforesaid, begin to keep any greater number of servants, carriages, horses, or other articles aforesaid, than hath been compounded for by him, the duties on which increased number, according to the acts relating to assessed taxes, amount unto one fourth part of the amount of duty so compounded for, then and in every such case the compositions entered into under this act, by any persons or person hereinbefore described, shall respectively cease and determine at the end of the year of assessment, according to the acts relating to assessed taxes in which any such increase of his or her establishment took place; also, if any person shall intermarry after entering into any composition or composition under this act, and entered into by both or either of them, and the husband shall by such marriage come into the possession, or to the use or enjoyment of the rents or profits of any estate, real or personal, belonging to his wife before marriage, whether upon such marriage the husband shall acquire any interest in law or equity in such estate or not, or whether the said estate shall remain as or be vested to the sole use of the wife or not, in case the husband shall upon such marriage retain or keep any servants, carriages, horses, or other articles herein enumerated, kept by or belonging to his wife before marriage, or in case the wife shall after such marriage retain her former establishment, or any part thereof, or in case the husband or wife shall upon such marriage begin to keep any other servants, carriages, horses, or other articles herein enumerated of the same description, and chargeable to the like duties, by the said acts relating to assessed taxes, in lieu and in the place of the establishment of the wife before marriage, or any part thereof, so that the separate establishment of either husband or wife, or their joint establishment, would have been assessable on the husband if no composition had been entered into to an amount of duty exceeding one fourth part of such composition, then and in every such case the composition entered into under this act by any such persons, or either of them, so intermarrying and keeping any such establishment as aforesaid, shall respectively cease and determine at the end of the year of assessment in which such increase of establishment began to be kept; but, nevertheless, it shall be lawful for the respective commissioners in every such case, after such person shall have made a *bona fide* return of the greatest number of servants, carriages, horses, and other articles of his or her establishment charged with any duty of assessed taxes according to the laws in force relating to the said taxes, for the year next after the determination of such composition, in order to an assessment thereon for that year, and who shall be duly assessed for that year to his or her assessed taxes, to contract and enter into composition, *de novo*, with any person for the remainder of the term then to come and unexpired on the amount so assessed on him or her for that year, together with the additional duty hereby granted on the amounts of other assessments to be compounded for under this act."

Sect. 25. "That the several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes, shall be commissioners for putting in execution this act, and the powers here referred to are contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put into execution the said acts, shall respectively be assessors, collectors, surveyors, inspectors and inspectors-general to put in execution this act within the limits of the respective divisions, districts, and places to which they are or shall be appointed; and the respective commissioners and other persons authorized by the said recited acts, to contract and agree for such compositions, or to do or perform any matter or thing for carrying the said recited acts into execution, shall severally and respectively contract and agree for the compositions to be entered into under this act, and do and perform all such other matters and things as are required to be done and performed in the execution of this act, within the limits of the respective jurisdictions; and all the powers and authorities given and granted to them by or under the said recited acts shall, and they are hereby declared to be revived and continued for and during the respective terms herein limited:

IV. Of Compounding for Assessed Taxes.

865

1 & 2 Geo. 4,
c. 113.

as ample and effectual manner as if the same powers and authorities were expressly re-enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same had been herein expressly given, granted, and applied by this act; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for putting this act in execution, in the like and in as full and ample a manner as they, or any of them, are, or were, or was authorized to put in execution the said several recited acts."

Sect. 26. "That all and every the provisions, directions, rules, regulations, methods, clauses, matters, and things contained in the said recited acts, although expressly applied to the compositions made under the said acts, or either of them, shall severally and respectively be construed and deemed to apply to the compositions to be entered into under this act, and (except where other provisions, directions, rules, regulations, methods, clauses, matters, and things, are substituted in and by this act), shall severally and respectively be used and practised in ascertaining the amount on which any composition is to be made, and the additional rate to be imposed thereon, and in doing and performing all other matters and things necessary for carrying this act into execution, and shall be construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same were severally repeated in and expressly applied to the provisions of this act; and where other provisions, directions, rules, regulations, methods, clauses, matters, or things are substituted by this act, in lieu of any provisions, directions, rules, regulations, methods, clauses, matters, or things contained in the said acts, the same respectively shall be construed, used, and practised in such manner, and to the like effect in all respects, as if the said recited acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said recited acts, in lieu whereof any part or parts of this act are or is substituted."

Sect. 27. "That where the said recited acts contain any period or limitation of time for the doing or performing of any act, matter, or thing therein required, the powers and authorities of the said acts shall be used and practised for the doing and performing the like acts, matters, and things required by this act, observing therein the period or limitation of time expressed in this act."

Sect. 28. "That all and every persons or person who are or is hereby declared to be competent to compound under this act, and shall be desirous so to do, shall, on or before the fifth day of April, 1822, in England, and on or before the term of Whitsunday in the same year in Scotland, deliver or cause to be delivered, free of charge, to the surveyor of the respective districts acting for the parishes or places where such persons shall respectively reside, a notice in writing according to the form in the schedule to this act annexed, declaring their, his, or her intention to take the benefit of this act, which notice shall be signed and bear date on the day of such signature by such person or persons (or by some authorized agent on their, his, or her behalf, residing in such district, and declaring therein the place of his residence), in the presence of one or more of the assessors or collectors of the said duties for the same parish or place where the persons or person intending to compound shall reside, or in the presence of such surveyor, who respectively shall attest such signature by signing the same with his proper name; and every such notice shall contain the number and description of the articles on which such persons or person shall intend to compound, which notices shall be in the form in the schedule to this act annexed; and all such notices shall and may be retained in the hands of the said surveyor respectively, until the expiration of two calendar months after delivery thereof; and every such surveyor shall carefully and diligently inspect and examine each and every assessment, and each and every contract of composition entered into under the said recited acts, relating to the person or persons so applying respectively, and also the notice or notices delivered by the said persons or person, under the said recited acts, to discontinue any increased establishment set up under such contract or contracts, or any part thereof; and, after such examination thereof, every such surveyor shall from time to time, within the said period of two calendar months, deliver the same to and therewith certify to the respective commissioners authorized by this act

Provisions of former composition acts to remain in force;

so in respect of limitation of time for executing powers of former acts.

Persons intending to compound to give and sign notice thereof, together with a statement of the articles of composition, in the form in the schedule annexed.

Surveyor to examine assessments, contracts of composition, &c. and to certify to commissioners his satisfaction with notice, or his objection thereto.

1 & 2 Geo. 4,
c. 113.

Compositions entered into contrary to this act void.

Errors or mistakes in compositions may be amended.

Commissioners to insert the amounts of duties compounded for in their annual duplicates of assessed taxes.

Composition monies to be paid to collectors of places mentioned in the contracts.

Persons assessed or compounding, answerable for collectors.

Schedules of defaulters to be delivered to receivers-general, oath of demand having been made.

to contract for such compositions for the parishes or places where such applications shall have been made, either his satisfaction with the notices delivered in such cases, or his objection thereto, together with the particular article or articles omitted, and the amount of duty on which such composition ought to be made; and no composition shall be entered into in any of the cases so objected to, until a full and complete return shall be made of all and every the articles chargeable with duty, on which the composition ought to be made under the provisions of this act; and every composition entered into contrary to the provisions of this act shall be void and of no effect, and the persons or person entering into the same shall be liable to assessment, according to the provisions of the acts in force relating to assessed taxes, as if no composition had been entered into, and to the charge of the respective surveyors, to be made under the authority and subject to the provisions of the said last-mentioned acts."

Sect. 29. "That in every case where, by any error or mistake, the just amount of duty on which the persons or person compounding ought to compound, or the additional rate thereon, shall not be duly inserted or calculated in the contract of composition, it shall be lawful for the said commissioners for the affairs of taxes, and the said barons respectively, by certificate under the hands of any two or more of them, directed to the commissioners of the division by whom such composition was made, to cause the same to be amended, or a new contract made and executed, in such manner as may seem to them expedient to obviate such error or mistake, and conformable to the true intent and meaning of this act; and the said respective commissioners to whom such certificate shall be directed, shall cause the same to be amended accordingly."

Sect. 30. "That, from and after the passing of this act, the respective commissioners acting in the execution of the several acts relating to assessed taxes, and of the acts relating to the several compositions for the same, shall cause the several amounts of the duties compounded for, and the additional duty charged by this act, in each parish, ward, or place within their respective divisions, to be inserted in their annual duplicates of assessments of assessed taxes on parchment, in such form as the commissioners for the affairs of taxes shall devise, in like manner as if the same amounts had been severally charged by assessment, and shall place the respective amounts payable in each parish, ward, or place, opposite the names of the collectors of the same parish, ward, or place, that the several collectors in each parish, ward, or place, may be answerable for the same amounts as if the same had been to be raised by assessments under the said acts."

Sect. 31. "That the monies to arise and become payable by virtue of the compositions entered into or renewed under this act, shall be payable and paid to the collectors of the respective parishes, wards, or places mentioned in the respective contracts of such compositions, or to one of them, at or before such times respectively as are herein directed to be expressed in such contracts, and that all the powers and provisions in the acts relating to assessed taxes in the raising, levying, re-assessing, paying, and accounting for the duties of assessed taxes, shall be used, applied, and enforced for the raising, levying, paying, and accounting for the monies to arise under this act, as if the same had continued in the assessment; and that the persons assessed, or who shall compound, in each such parish, ward, or place, shall be severally answerable for the default of the collector or collectors of each such parish, ward, or place under the acts in force relating to the assessed taxes, rateably and in proportion to the amount of their, his, or her compositions or composition, and the remainder of the assessments for such parish, ward, or place."

Sect. 32. "That the like schedules as are required by the said acts relating to assessed taxes, or any of them, in default of payment of the monies assessed by assessment, shall be delivered of persons making default in the payment of monies to arise by such compositions, which last-mentioned schedules shall in all cases be delivered to the respective receivers-general, or their respective deputies, on their next receipt after each day of payment, with an affidavit subscribed, to be made on the oath or affirmation of the said collector or collectors, that the several sums contained in the said schedule have been

manded from, and are due and wholly unpaid from the respective persons charged therewith, either to such collector or collectors, or to any other person or persons for such collector or collectors, to the best of his or their knowledge and belief, which oath the said receivers-general, or their respective deputies, are hereby respectively authorized and required to administer and subscribe; and it shall be lawful for the respective receivers-general, or their respective deputies, and they are hereby required, forthwith to certify the same to the Court of Exchequer at Westminster, in order that process may thereupon be issued against such defaulter without delay."

1 & 2 Geo. 4,
c. 113.

Sect. 33. "That in default of any such schedule being delivered to any receiver-general, or his deputy, at such his receipts as aforesaid, or within the space of three days thereafter, every such receiver-general, or his deputy, at the same time that he shall certify the default of the collectors in the non-delivery of schedules under any acts relating to assessed taxes, shall, in and by the same certificate, and every receiver-general is hereby required, by himself or his deputy, to certify also to the said Court of Exchequer, the amount of the monies to arise by the said compositions and remaining unpaid, to the best of his knowledge and belief, and the particular parish, ward, or place, and the division, where such failure hath happened, together with the names of the collectors of the said parishes, wards, or places."

Collectors in default for non-delivery of schedules, to be certified in like manner, together with the amount remaining unpaid.

Sect. 34. "That from and after the passing of this act, every certificate under the hand of any receiver-general or his deputy, of any default of any collector or collectors of the assessed taxes, or of the monies arising from compositions under the said recited acts or this act, for non-delivery of a schedule as directed by the said acts or this act, shall be a sufficient authority to the barons of the said court, or any one of them, to cause immediate process to be issued out of and from the office of the king's remembrancer of the said court, against the said collector or collectors; upon which writ, the sheriff or other officer to whom the said process shall be directed, shall levy issues after the rate of 1s. for every 20s. of the sums so unpaid or unaccounted for by the said certificate, and shall pay the monies so levied, after deducting the costs, charges, and expenses, to be settled and allowed by the commissioners for the affairs of taxes, to the receiver-general or his deputy; and the said sheriff shall make immediate return of the said process to the court according to the due course thereof: provided always, that it shall be lawful for the commissioners for the affairs of taxes, or any two or more of them, after payment of the duties in arrear so certified, to cause such issues, or such part thereof as they shall think reasonable, and whenever they shall be satisfied that the default so certified was not wilful, to be remitted and paid to the collector or collectors on whom the same was levied, after deducting thereout the costs and charges attending such process and levy, to be settled and allowed by the said commissioners."

Every such certificate to be an authority to the court to issue process for the levy of issues.

After payment of arrears, &c. commissioners for affairs of taxes may remit such issues.

Sect. 35. "That all the monies arisen from fines, penalties, issues, and forfeitures, or shares thereof, respectively recovered, levied, or received under the said acts relating to the duties of assessed taxes or any of them, or under the said recited acts relating to compositions for the said duties, or which, after the passing of this act, shall be recovered, levied, or received under the said acts or this act, shall be paid by all sheriffs, under-sheriffs, or other the person or persons having received or recovered, or who shall receive or recover the same respectively, into the hands of the receiver-general of the said duties and compositions, or to his deputy acting for the county, division, city, or place within which such fines, penalties, issues, and forfeitures, or shares hereof, respectively have arisen and have been received or levied, or shall arise and be received or levied, within ten days after they respectively shall receive any order for that purpose under the hands of any two or more of the said commissioners for the affairs of taxes, or to such other receiver-general of the duties of assessed taxes, or compositions for assessed taxes, to be named in such order, as the said commissioners last mentioned shall direct."

Sheriffs, &c. having in hand penalties or issues levied under assessed taxes or compounding acts, or who shall receive same under this act, to pay over to receiver-general.

Sect. 36. "That all the monies arising by compositions entered into under the said recited act or this act (the necessary charges of raising and accounting for the same excepted), shall from time to time be paid into the receipt of his

The monies arising by compositions to be paid into the consolidated fund.

1 & 2 Geo. 4,
c. 113.

Proviso for
butchers for one
horse used for
the purposes of
trade.

Treasury may di-
rect that the pro-
visions of act for
relief of persons
in Ireland compo-
unding for as-
sessed taxes, be
extended for fur-
ther periods, as
herein mention-
ed.

Schedule an-
nexed deemed
part of this act.
How form to be
used.

majesty's Exchequer at Westminster, to the account of assessed taxes in Great Britain, and shall be carried to and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland."

Sect. 37. "That from and after the fifth day of April, 1821, nothing in the said recited acts contained shall extend, or be construed to extend, to deprive any butcher of any exemption for or on account of one horse to be used by him or his servant or servants solely for the purposes of trade, to which exemption such butcher would have been entitled under any act or acts relating to assessed taxes, in force previous to the passing of the said recited act."

Sect. 38. "That it shall and may be lawful for the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three of them, to order and direct the commissioners of inland excise and taxes in Ireland, or any three or more of them, to make contracts and agreements with any person or persons in Ireland, who shall have made or entered into any composition for the term of three years from the sixth day of January, 1820, under and by virtue of the said recited act, for the rates, duties, and taxes on dwelling-houses, for and in respect of the fire-hearths, or other places for firing or stoves, and of the windows or lights therein, and in the out-houses, offices, and edifices appertaining thereto, and on male servants and other male persons, and on horses, mares, and geldings, and on carriages, neo-horses, and dogs; so that such compositions may be continued for any further term not exceeding six years from the sixth day of January, 1823; and in like manner to make contracts and agreements for any term not exceeding seven years, from the sixth day of January, 1822, with any person or persons who shall be assessed or charged for the year ending on the fifth day of January, 1822, with the said rates, duties, and taxes, or any of them, and who shall apply to the said commissioners of inland excise and taxes, for making a composition for the rates, duties, and taxes, which such person or persons shall be chargeable with and liable to pay; and that all such compositions shall be continued and shall be made upon and under the like terms and conditions in all respects, as are directed in and by the said recited act of the said fifth-ninth year, with respect to compositions under the said recited act; and that all rules, regulations, conditions, and provisions, with respect to any such composition made before the passing of this act, and all such other rules, regulations, conditions, and provisions as shall be directed or required by the said commissioners of the treasury, shall be applied and put in effect with respect to such compositions as shall be continued or made under the authority of this act, for and during the term for which such compositions shall be continued or shall be made as aforesaid, as fully and effectually to all intents and purposes, as if such rules, regulations, conditions, and provisions had been repeated and enacted in this act."

Sect. 39. "That the schedule hereunto annexed shall be deemed a part of this act, as if the same had been inserted herein under a special enactment: provided always, that it shall be lawful for the commissioners of this act to use the said form as well where the composition shall comprise all the duties therein mentioned, or a part or parts thereof, only striking out all such parts thereof as may not relate to the duties not intended to be included therein."

"The SCHEDULE to which this Act refers.

"No. I.

"NOTICE to be used by Persons desirous of Compounding for their Assessed Taxes.

"To _____, surveyor, acting for the parish of _____,
the division of _____, in the county of _____,
to the commissioners acting for the said division.

"Take notice, that I am [or, we are] desirous of compounding for assessed taxes under the powers, conditions, and provisions of an act passed in the second year of the reign of George the Fourth, on _____ dwelling-house and establishment _____
said _____ of _____; the particulars of which are as follows:—

IV. Of Compounding for Assessed Taxes.

869

1 & 2 Geo. 4,
c. 113.

Dwelling-House situate in the said parish . . .	{ <div>Number of Windows</div> <div>Amount of Rent . £</div>	

ESTABLISHMENT.		Number.
Servants	Schedule (C.), No. I.	
Servants	Schedule (C.), No. II.	
Four-Wheel Carriages	Schedule (D.), No. I.	
Two-Wheel Carriages	Schedule (D.), No. II.	
Taxed Carts	Schedule (D.), No. IV.	
Horses for Riding	Schedule (E.), No. I.	
Race-Horses	Schedule (E.), No. III.	
Dogs	Schedule (G.)	
Hair-Powder	Schedule (I.)	
Armorial Bearings	Schedule (K.)	

And that _____ will attend to execute and receive the contract of composition, when required by the commissioners.

"Signed, the _____ day of _____, 18 .

"Witness,

"Assessor or collector of the }
above-named parish."

"No. II.

"NOTICE to be used by Persons desirous of renewing their former Composition.

"To the commissioners acting for the division of _____, in the county of _____

"Take notice, that I am [or, we are] desirous of renewing _____ former compositions for _____ assessed taxes, under the powers, conditions, and provisions of an act passed in the second year of the reign of George the Fourth; and that _____ will attend to execute and receive the contract of _____ composition when required by you. And you will further take notice, that the following articles, not allowed to be compounded for by the said act, are included in _____ said former composition:

Articles included in	former Composition.	Nos.	Duty.
Persons in _____ employ charged under	Schedule (C.), No. III.		
	Do. No. IV.		
	Schedule (D.), No. III.		
	Do. No. V.		
Articles kept for the purpose of	Do. No. VI.		
trade, charged under	Do. (E.), No. II.		
	Do. (F.), No. I.		
	Do. (H.)		

"Signed, the _____ day of _____, 18 .

"Witness,

"Assessor or collector of the }
parish of _____."

"No. III.

"NOTICE to be used by Persons entitled to Compound on a lesser Establishment than is comprised in their former Composition.

"To _____, surveyor, acting for the parish of _____, in the county of _____, and _____ to the commissioners acting for the said division.

"Take notice, that I [or, we] have, before the [sixth day of April, 1821], laid down _____, part of _____ establishment, on which have compounded under the act of 59 Geo. III., enumerated in the following schedules, and _____ desirous of compounding for the reduced establishment now kept by _____, and on which _____ compounded, also enumerated in the said schedule.

1 & 2 Geo. 4,
c. 113.

ESTABLISHMENT laid down since the former Composition.			
		No. ceased to keep before the 6th April, 1821.	Retained, and now kept.
Servants . . .	Schedule (C.), No. I.		
Servants . . .	Schedule (C.), No. II.		
Four-Wheel Carriages . . .	Schedule (D.), No. I.		
Two-Wheel Carriages . . .	Schedule (D.), No. II.		
Taxed Carts . . .	Schedule (D.), No. IV.		
Horses for Riding . . .	Schedule (E.), No. I.		
Race-Horses . . .	Schedule (E.), No. III.		
Dogs . . .	Schedule (G.)		
Hair-Powder . . .	Schedule (I.)		
Armorial Bearings . . .	Schedule (K.)		

And that _____ will attend to execute and receive the contract of
composition when required by the commissioners.

"Signed, the _____ day of _____, 18 _____.

"Witness,

"Assessor or collector of the }
above-named parish."

"FORM of renewed Contract of Composition for Assessed Taxes.

		Amount of Duties.	<p>Know all men, that we, two of the commissioners acting in the execution of the acts in relation to assessed taxes for the division of _____, in the county of _____, have contracted and agreed with A. B., of _____, in the said division, in pursuance of an act passed in the second year of the reign of his present majesty, for the renewal of the composition of _____ assessed taxes, as stated in the margin hereof; namely:</p> <p>upon _____ dwelling-house, with the appurtenances therewith occupied, situate in the said parish, on the amount expressed therein, and also upon servants, horses, and other articles of _____ establishment, on the amount expressed therein, together with the additional rate granted by the said act.</p> <p>Which several amounts are to be paid to the collectors of the said parish by two instalments: viz.</p> <p>1st instalment, on or before the tenth day of October.</p> <p>2d instalment, on or before the fifth day of April.</p> <p>And so yearly during the respective terms of six years and five years, from the fifth day of April, 1822, mentioned in the said act.</p>
Windows	Number		
Rent	Amount £		
Total Amount of Duties			
Composition Duty of £5 per Centum			
Total Amount of Composition			
ESTABLISHMENT.		Amount of Duties.	
Nos.	Schedules.		
Servants	(C.), No. I.		
Servants	(C.), No. II.		
4-Wheel Carriages	(D.), No. I.		
2-Wheel Carriages	(D.), No. II.		
Taxed Carts	(D.), No. IV.		
Horses for Riding	(E.), No. I.		
Race-Horses	(E.), No. III.		
Dogs	(G.)		
Hair-Powder	(I.)		
Armorial Bearings	(K.)		
Composition Duty of £5 per Centum, } under act of 59 Geo. III.			
Total Amount of Duties			
Composition Duty of £5 per Centum, } by the 2 Geo. IV.			
Total Amount of Composition for Es- } tablishment			
Ditto for House			
Total Amount of Composition			

IV. Of Compounding for Assessed Taxes.

871

"The condition of the above composition is, that the above-named shall duly pay,
or cause to be paid, to the collectors for the said , or one of them, on or before the
days above mentioned, upon demand, the yearly sum of , by two instalments, in even
portions, taking their or his receipt in writing for the same; otherwise the said composition shall be
levied of the goods and chattels of the said , or sued for and recovered by any
of the ways and means by which the monies due on assessments may be sued for and recovered.

"Witness,
"Clerk.

} Commissioners of the within Division.

"Witness,
"Clerk.

The party hereto."

"N. B. With the consent of the commissioners, the collector of the parish may witness the signature of the party to the contract."

"FORM of Contract of Compositions under the Act of the 2 Geo. IV.

		Amount of Duties.	
Windows Number }			
Rent Amount £			
Total Amount of Duties			
Composition Duty of £5 per Centum			
Total Amount of Composition			
ESTABLISHMENT.		Amount of Duties.	
Nos.	Schedules.		
Servants	(C.), No. I.		
Servants	(C.), No. II.		
4-Wheel Carriages (D.), No. I.			
2-Wheel Carriages (D.), No. II.			
Taxed Carts	(D.), No. IV.		
Horses for Riding (E.), No. I.			
Race-Horses	(E.), No. III.		
Dogs	(G.)		
Hair-Powder	(I.)		
Armorial Bearings (K.)			
Total Amount of Duties			
Composition Duty of £5 per Centum			
Total Amount of Composition for Es- } tablishment			
Ditto for House			
Total Amount of Composition			

Know all men, that we, two of the commissioners acting in the execution of the acts in relation to assessed taxes for the division of , in the county of
, have contracted and agreed with
, of
the said division, in pursuance of an act passed in the second year of George the Fourth, for the composition of assessed taxes, as stated in the margin hereof, and additional rate.

Which several amounts are to be paid to the collectors of the said , by two instalments; viz.

1st instalment, on or before the tenth day of October.

2d instalment, on or before the fifth day of April.

And so yearly during the respective terms of six years and five years, from the fifth day of April, 1822, mentioned in the said act.

"The condition of the above composition is, that the above-named shall duly
pay, or cause to be paid, to the collectors for the said , or one of them, on or
before the days above mentioned, upon demand, the yearly sum of , by two
instalments, in even portions, taking their or his receipt in writing for the same; otherwise the said
composition shall be levied of the goods and chattels of the said , or sued for
and recovered by any of the ways and means by which the monies due on assessments may be sued for
and recovered.

"Witness,
"Clerk.

} Commissioners of the within Division.

"Witness,
"Clerk.

The party hereto."

"N. B. With the consent of the commissioners, the collector of the parish may witness the signature of the party to the contract."

3 Geo. 4, c. 50.

1 & 2 Geo. 4, c. 113.

s. 1.

s. 5.

s. 9.

The time for executing the contracts enlarged.

Certificates of composition to be executed on or before the 8th Oct. 1822.

Persons renewing their compositions exempted from the additional duty, where they have no increased their establishment during the period of their former composition.

Surveyor to examine notice, and deliver same to commissioners.

By the 3 Geo. IV. c. 50, s. 1, intituled "An Act to extend the Period allowed to Persons Compounding for their Assessed Taxes, and to give further Relief in certain Cases therein mentioned," after reciting, that, "whereas by an act passed in the first and second years of the reign of his present majesty King George the Fourth, intituled 'An Act to continue several Acts for the Relief of Persons Compounding for Assessed Taxes from an annual Assessment, for a further Term; and to amend the Acts relating to Assessments and Compositions of Assessed Taxes,' persons therein described, who had compounded for the said duties under the acts therein recited, were authorized to continue their former compositions for a further term; and persons therein also described, who had not so compounded, were authorized to compound for the term and in the manner in the said act prescribed, and on the conditions therein contained; provided that such persons respectively should give notices of their intentions so to continue their former compositions, or to compound, on or before the fifth day of April, 1822, in the manner by the said act prescribed; and whereas it is expedient to enlarge the period for compounding under the said act, and to grant relief in certain cases hereinafter described:" it is enacted, "that in every case wherein the respective surveyors acting in the execution of the said act shall, after the fifth day of April, 1822, and before the passing of this act, have received, and in every case wherein the said respective surveyors, from and after the passing of this act, and before the first day of September, 1822, shall receive any notice or offer to compound or to continue any former composition authorized by the said act, except as hereinafter is excepted, it shall be lawful for the said respective surveyors diligently to inquire into and examine such notices, and to certify their assent thereto, at any time within thirty days after the delivery thereof respectively; and it shall be lawful for the respective commissioners acting in the execution of the said act, and they are hereby authorized and required, to enter into composition with such person or persons respectively, subject to the rules and regulations, and according to the provisions of the said act and of this act, to all intents and purposes, as if the said notices had been delivered within the time limited by the said first-mentioned act; provided the certificates of such compositions respectively shall be executed by the said commissioners, and the party so compounding, on or before the fifth day of October, 1822; and provided that the compositions authorized to be entered into under this act shall not extend to any case mentioned in the said act, other than to renewed compositions, and such compositions as are authorized to be made on the amount of assessments mentioned in the said act, except where otherwise varied by the provisions of this act; and which certificates of compositions, when executed by the said commissioners or any two or more of them, and by the party aforesaid, in the manner by the said act directed, shall be of the like force and effect, and subject to the like powers and conditions for payment, to all intents, as if the said compositions had been entered into under the directions of the said act; anything in this act contained to the contrary notwithstanding."

Sec. 2. "That if any person or persons who have given or who shall give notice of renewing his, her, or their former compositions under the provisions of the said recited act or of this act, shall not have increased his, her, or their establishment, since entering into such first composition, whereby such person or persons have not become or are liable to be charged with a greater amount of duty for the whole of the articles chargeable than the duty so compounded for, it shall and may be lawful for him, her, or them, to claim the exemption from the said additional duty granted by the said act, upon giving notice in writing of such his, her, or their intention to the surveyor of the said duties acting for the district in which such person or persons shall reside, according to the form in the schedule to this act annexed, on or before the first day of September, 1822: and all such notices shall and may be retained in the hands of the said surveyor respectively, until the expiration of thirty days after the delivery thereof; and every such surveyor shall carefully and diligently examine the same, and from time to time, within the said period of thirty days, deliver the same to, and therewith certify to the said respective commissioners, his satisfaction with, or his objections to the said notices delivered in said

cases; and in case the surveyor shall object to any such claim, he is hereby required to give notice thereof in writing to the respective commissioners, and his objections thereto shall, in pursuance of such notice, be heard upon appeal before the said respective commissioners, subject to such rules and regulations as appeals are directed to be heard and determined under the several acts relating to the assessed taxes."

3 Geo. 4, c. 56.

Notice of objection.

Sect. 3. "That in all claims to be allowed by the said respective commissioners, acting in the execution of the said acts and of this act, in the cases herein provided, it shall be lawful for the said commissioners, and they are hereby authorized and required, to contract with the said persons, under the said recited act, for a renewal of his, her, or their composition, exclusive of the said additional duty by the said act granted; and where any claim shall be made and allowed under this act, upon any contract made and entered into before the passing thereof, it shall be lawful for any two of the said respective commissioners, and they are hereby required, to certify, under their hands, every such allowance on the back of such contract, without erasing the said additional duty from the body thereof; and all and every such contracts so indorsed shall be as valid and effectual for enforcing the same to the amount of the reduced consideration and instalments by virtue of such indorsement, to all intents, as if the said contracts had been originally entered into without including therein the said additional or further duty."

Commissioners contracting for renewal of composition.

Claims for relief from additional duty may be indorsed on contract.

Sect. 4. "That from and after the fifth day of April, 1822, for the term of five years then next following, any person occupying a farm as tenant at rack-rent, the rent of which shall be less than 200*l.* a-year, and making a livelihood solely thereby, or any person occupying any estate on any other tenure than as tenant at rack-rent solely on such estate, together with a farm at rack-rent, the value of which, in the whole, shall be less than equivalent to a farm at rack-rent of 200*l.* a-year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack-rent, as equivalent to double the amount of the like farm at rack-rent), and making a livelihood solely by such his own estate, or by such estate and farm jointly, shall be exempt from the duty payable under the said acts for one horse, mare, or gelding, *bona fide* kept and usually employed for the purpose of husbandry on his said estate or farm, although used occasionally for the purpose of riding; such being claimed and allowed in like manner as is directed by the acts relating to assessed taxes, in other cases of exemption from the said duty."

Exemption from horse-duty under the said acts for farmers herein described occasionally riding a husbandry horse.

Sect. 5. "That from and after the said fifth day of April, 1822, any persons occupying a farm of less value than 200*l. per annum*, in the cases of exemptions last hereinbefore described, and making a livelihood solely thereby, and from the profits of letting and use hereinafter mentioned, shall be exempt from the duty chargeable by the said recited acts, in respect of any horses, mares, or geldings, *bona fide* kept for the occupation of his, her, or their farm, although any such horses, mares, or geldings, shall be occasionally let to hire, or used in drawing for hire or profit, by such person or persons, for any other purposes than of drawing any carriage chargeable with duty in respect of such horses or carriages, or of letting the same to hire."

Exemption for farmers herein described occasionally letting their husbandry horses to hire, or drawing for hire or profit.

Sect. 6. "That the windows to be returned in each such statement were intended by the said last-mentioned act to be, and shall be, the same number on which an assessment hath been made, or might or ought to have been made thereon, if the same had been then occupied for the year ending on the fifth day of April, 1822, according to the laws relating to assessed taxes in force at the time of making the said act; and in all cases where any statement hath been delivered before the passing of this act, containing a less number of windows than were chargeable on the dwelling-house mentioned therein on the sixth day of April, 1821, a new statement shall be delivered within two calendar months after the passing of this act, conformable to the declaration and enactment before mentioned, and it shall be lawful for any person or persons before described, whether such statements have been before delivered or not, to deliver such statements within the said period, according to which assessments shall be made on the number of windows comprised therein; and all contracts of composition made, or to be made, contrary to this act, shall be void and of

Statements required under former act to authorize compositions on assessments to the house and window duty for 1822, in cases of removal, to contain the number of windows chargeable for 1821.

3 Geo. 4, c. 50.

Contracts of composition contrary to act, void.

Amending contracts.

Persons authorized to compound may include stewards, bailiffs, &c. and occasional servants employed in taxable capacities.

no effect: provided, that the commissioners who may have already executed any contract of composition upon statements delivered contrary to this act, may amend the same without executing new contracts, by indorsing thereon the number of additional windows, duty, and per-centage, on every such contract."

Sect. 7. "That it shall be lawful for every person competent to renew his, her, or their composition, or to compound under the said recited act, or this act, to include in such composition, renewed or entered into respectively, the duty in respect of any clerk, or of any steward, bailiff, overseer, or manager, or of any male person described in the schedule of an act, passed in the fifty-second year of the reign of his late majesty, and in the said act mentioned, marked (C.), No. 3, such male person being occasionally employed in any of the capacities enumerated in the schedule to the said act marked (C.), No. 1, as in the said schedule, No. 3, is described: provided, nevertheless, that the composition of any such person so renewing his, her, or their former composition, or compounding, shall contain the duty for one such servant chargeable in the said schedule marked (C.), No. 1; and it shall be lawful for the respective commissioners to include such respective articles herein allowed, or any of them, in such composition respectively, on the same terms as if the said articles had been originally allowed to be compounded for by the said act; and in cases where contracts shall have been entered into before the passing of this act, it shall be lawful for the said respective commissioners, and they are hereby authorized, to amend the same, by causing the amount of composition for any of the articles aforesaid to be certified by indorsement on such contract, under the hands of any two of such commissioners; and the sum so charged and added to the amount of the said composition in and by such certificate, and to the assessment thereof, shall and may be levied and recovered by the same instalments, and in like manner as the amount of composition inserted in the body of such contract, and in addition thereto, anything hereinbefore contained to the contrary notwithstanding."

Discontinuance of composition with persons employed abroad in the public service,

Sect. 8. "That if any person, during the continuance of his composition under the said act, or this act, shall, by reason of any employment in the public service in the execution of any office, military, naval, or civil, be required and ordered to reside out of the United Kingdom, and such person shall give notice thereof to the surveyor of the district in which such composition shall be entered into, every such composition shall cease and determine on the first day of April next after such notice, and the time of such absence and removal from the said United Kingdom, on payment of all arrears due on such contract up to the said fifth day of April last mentioned; and the commissioners for the affairs of taxes shall cause the discontinuance of such contract to be certified to the commissioners of the district in which it was made: provided, that nothing herein contained shall exempt any such person from his or her liability to assessment under the acts relating to the assessed taxes for any year or years commencing from the fifth day of April last aforesaid, in respect of all or any part of his establishment continued to be kept and employed in the said United Kingdom for any part of his family, or from his liability to assessment under the said acts, from and after the fifth day of April next following the discontinuance of such employment in the public service, and his returning to and residing in the United Kingdom, to all intents, as if such composition had not been entered into."

certified to commissioners of district.

Proviso.

Commissioners and other officers appointed to execute the former acts, to execute this act.

Sect. 9. "That the several and respective commissioners acting in the execution of the said act, shall be commissioners for putting in execution this act and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinqueports, towns, and places in Great Britain; and the several collectors, surveyors, inspectors, and inspectors-general for the time being, appointed, or to be appointed, to put in execution the said recited act, shall respectively be collectors, surveyors, inspectors, and inspectors-general, to put in execution this act, within the limits of their respective divisions, districts, and places to which they are or shall be appointed; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things

necessary for putting this act in execution, in the like and in as full and ample a manner as they or any of them are or is authorized to put in execution the said act; and all and every the powers and authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things contained or referred to in the said act (except where such provisions are varied, or other provisions are substituted by this act), shall, in collecting, levying, and accounting for the said compositions and monies respectively, be severally and respectively duly observed, practised, and put in execution throughout Great Britain, in relation to all and every the compositions, duties, and monies aforesaid, as fully and effectually, to all intents and purposes, as if the same powers, authorities, methods, rules, directions, penalties, forfeitures, clauses, matters, and things were particularly repeated and re-enacted in the body of this act, and applied to all and every such compositions, duties, and monies aforesaid, as part of the provisions of this act."

3 Geo. 4, c. 50.

Sect. 10. "That this act may be altered, amended, or repealed by any act to be passed in this present session of Parliament."

Act may be altered, &c. this session.

"Schedule to which this Act refers.

"NOTICE to be used by Persons not having increased their Establishment under former Compositions, and claiming, on renewal, Exemption from the additional Duty of 5*l.* per centum.

"To _____, surveyor, acting for the parish of _____,
in the division of _____, in the county of _____,
and to the commissioners acting for the said division.

"Take notice, that I am [or, we are] desirous of renewing _____ former composition for assessed taxes, under the powers, conditions, and provisions of two acts, passed in the second and third years of the reign of King George the Fourth; and that _____ do hereby declare, that _____ have not at any time during the period of _____ composition, entered into with the commissioners of the division of _____, in the county of _____, become chargeable on a greater aggregate amount of duty, for the whole of the articles comprised in such composition, than the amount of duty compounded for; whereby _____ hereby claim exemption, on such renewal, from the additional duty of 5*l.* per centum by the said acts granted; and that _____ will attend to execute and receive the contract of composition when required by the said commissioners.

"Signed, the _____ day of _____, 182 _____.

"Witness,

"(Assessor or Collector of the said parish.)"

4 Geo. IV. c. 11, "An Act for repealing certain of the Duties of Assessed Taxes; for reducing certain other of the said Duties; and for relieving Persons who have compounded for the same." See *ante*, 787.

4 Geo. 4, c. 11.

By the 4 Geo. IV. c. 45, "An Act for allowing Persons to compound for their Assessed Taxes for the Remainder of the Periods of Composition limited by former Acts; and for giving Relief in certain Cases therein mentioned," after reciting, that "whereas under and by virtue of an act passed in the first and second years of the reign of his present majesty, intituled, 'An Act to continue several Acts for the Relief of Persons compounding for their Assessed Taxes from an annual Assessment for a further Term, and to amend the Acts relating to Assessments, and Compositions of Assessed Taxes;' and of another act, passed in the third year of his majesty's reign, intituled, 'An Act to extend the Period allowed to Persons compounding for their Assessed Taxes, and to give further Relief in certain Cases therein mentioned;' all and every the persons therein described were authorized to compound for the duties on houses, windows, and lights, for the term of six years, and other assessed taxes therein enumerated, for the term of five years, to be respectively computed from the fifth day of April, 1822, on the terms and conditions, and under the provisions contained in the said acts, on such persons giving the notices of his, her, or their intention to compound, required by the said acts, on or before certain days, which have since elapsed: and whereas it is expedient to extend the provisions of the said acts, for enabling persons now to enter into composition for the remainder of the periods therein limited, and which were unexpired on

4 Geo. 4, c. 45.

1 & 2 Geo. 4, c. 113.

3 Geo. 4, c. 50.

4 Geo. 4, c. 45.

Persons may compound upon assessments commencing 5th April, 1823, in respect of articles allowed by the former acts.

Persons intending to compound under this act, to give notice required by 1 & 2 Geo. 4, c. 113, Schedule No. 1, on or before 1st Sept. 1823.

Persons having compounded in Ireland, and coming to reside in Great Britain, may compound under this act, according to their former compositions:

Composition not to exempt from assessment for articles of a different description to those compounded for, but for which they may compound in one contract.

the fifth day of April, 1823, in the manner herein provided: it is enacted, "that, from and after the passing of this act, it shall and may be lawful for any person or persons who shall be duly assessed to the said rates and duties, for the year commencing the fifth day of April, 1823, and who shall give the notice of their, his, or her intention to compound within the time and in the manner hereinafter provided, and they are hereby respectively declared to be competent to compound for the rates and duties assessed on their, his, or her dwelling-house, for the term of five years, and for their, his, or her other assessed taxes allowed to be compounded for by the said acts, and therein particularly enumerated, for the term of four years respectively, to commence from the fifth day of April, 1823, together with an additional annual duty of 1s. for every 20s. of the respective amounts so assessed, and so, after that rate, for any greater or lesser sum than 20s.; and the assessments so to be made and compounded for under this act shall severally be and remain to the same annual amount for the respective periods last mentioned, to all intents, as if the said duties had been compounded for under the said acts."

Sec. 2. "That all and every person and persons desirous of compounding under this act, shall, on or before the first day of September, 1823, deliver, or cause to be delivered, free of charge, to the surveyor acting for the respective districts, comprising the parishes or places wherein such persons shall respectively reside, a notice in writing, according to the form in the schedule to the said first-mentioned act annexed, marked No. 1, and in the manner by the said acts directed, declaring their, his, or her intention to compound under this act, and which notice shall be acted upon, observed, and followed for the purposes of composition on a full and complete assessment for the said year, commencing from the fifth day of April, 1823; and the said commissioners shall and are hereby authorized and required to contract with such persons respectively, under the provisions in the said recited acts and this act respectively contained, for the periods and in the manner herein limited, and according to the form of contract set forth in the schedule to this act annexed, *mutatis mutandis*, to all intents, as if such notices had been delivered within the times by the said acts limited, and under the several provisions thereof."

Sec. 3. "That in every case in which any person or persons so having compounded in Ireland, shall, on the occasion of their, his, or her residence in Great Britain, be desirous of retaining the benefit of the same contract of composition entered into in Ireland, it shall be lawful for them, him, or her, so to do, and for that purpose to annex to the said notice of their, his, or her intention to compound under this act, to be given within the period and in manner hereinbefore described, the original contract of composition entered into in Ireland, or a true copy thereof, duly authenticated by the proper officer in that behalf; and on the receipt of such notice and contract, or a true copy thereof, it shall and may be lawful for the respective commissioners acting in the execution of this act, in and for the district in which such notice shall be delivered, and such person shall reside, to make an assessment of duty on every such person respectively, for the year commencing from the fifth day of April, 1823, according to the number only of the particular articles so included in the said contract of composition, and which shall be deemed and taken as such cases as a full assessment, for the purposes of composition, for the like description of articles under this act; and it shall thereupon be lawful for the said commissioners to enter into a contract of composition with such persons respectively, under the provisions of this act; and all such compositions so entered into shall be of the same force and effect, and shall give the persons or persons compounding the like privileges and advantages in respect of the same description of articles contained in such composition, as would have been enjoyed under any other contract authorized to be made by virtue of this act; provided, nevertheless, that no such contract, so to be entered into as last aforesaid, and nothing herein contained, shall be construed to exempt any persons last mentioned from assessment during the continuance of their, his, or her said composition, by reason of their, his, or her residence in Great Britain, for and in respect of any articles kept and used, and chargeable with duty under the said acts, of a description different from the duties compounded

for in Ireland, but such persons respectively may, on giving notice of their, his, or her intention in that behalf, in the manner hereinbefore directed, respectively compound under this act for such other articles, upon and according to a full and true return and assessment for the same, to be made for the said year, commencing as aforesaid, in the manner directed by this act in other cases of composition; and the whole of the duties so to be compounded for shall and may, in such cases, be included in one and the same contract."

Sect. 4. "That where any person or persons compounding under the said recited acts, or this act, shall have removed from the district in which such composition shall have been entered into, to another dwelling-house and place of residence, and shall thereupon cease to have any dwelling-house or place of residence within the district in which they, he, or she, so compounded, the annual assessment payable on such composition for the year commencing from the fifth day of April next following such removal, shall be transferred to the district in which such person or persons shall then reside; and it shall be lawful for the respective commissioners acting in the execution of the said acts and of this act, within and for the district to which such person or persons shall have so removed, and they are hereby required, upon receiving a certificate thereof, and of the amount of the annual assessment payable on any such person's contract of composition in the former district, under the hands of any two of the commissioners acting for such last-mentioned district (and which certificate, to be prepared under the authority of the commissioners for the affairs of taxes, the said commissioners acting for the said district are hereby required to sign, and cause to be delivered to the surveyor for the same district from time to time, as soon as conveniently may be, after every such removal), to cause the several amounts of the duties and instalments compounded for and payable from and after the period last aforesaid, by any such persons or person, to be added to and charged in the assessment of the parish to which such persons or person shall have so removed, and in the annual duplicate of assessment required to be made out by the said commissioners under the said acts for such last-mentioned district; and all such assessments and instalments of composition shall, when so transferred, be collected, levied, and raised, under the same powers, and by the same rules, provisions, ways, and means, as if the said duties had been originally compounded for and made payable to the collectors or collector in the said last-mentioned district, and as if the same originally formed part of the assessment of the parish, ward, or place, to which the said instalments shall have become transferred under the authority of this act, anything in the said recited acts or in any contract contained to the contrary notwithstanding: provided, nevertheless, that nothing herein contained, notwithstanding the transfer of the said future instalments, shall prevent the raising and levying of all arrears of composition payable by the persons last herein described, in the district from which they, he, or she shall have so removed as aforesaid, or otherwise, up to the fifth day of April next following such removal, by the same powers and provisions as the said duties were recoverable before the passing of this act; and all such future instalments, until actually transferred to the assessment of another parish, ward, or place, shall so, in like manner, be raised and levied under the provisions of the said acts, as part of the assessments of the district in which such compositions were entered into."

Sect. 5. "That in every case when and as the future instalments payable under any composition shall have been transferred, and added to the assessment of the parish, ward, or place in the district to which any person or persons shall have removed under the provisions last hereinbefore contained, and which shall be duly certified under the authority of the commissioners for the affairs of taxes, it shall be lawful for the commissioners acting for the district from which the person or persons whose composition shall be so transferred shall have ceased to reside, to discharge all such future instalments so transferred, from the assessment on the parish, ward, or place therewith before charged, and in the duplicates of the said duties to be prepared and transmitted from the said last-mentioned district, under the provisions of the said acts."

Sect. 6. "That, in order to the due collection and payment of the instal-

4 Geo. 4, c. 45.

Where persons compounding remove to other districts, the compositions may be transferred and collected in the district of actual residence on certificate.

All instalments and arrears arising within or prior to the year of removal to be paid in the former district.

On transfer of future payments of compositions to assessment of parish of removal, assessment therein may be discharged.

The foregoing provisions for

4 Geo. 4, c. 45.
transfer of composition to places of residence applied to further removals by the same persons during the continuance of their compositions.

ments on compositions, to all intents as annual assessments in the districts in which the persons chargeable shall reside during the continuance of such compositions, it shall and may be lawful for the respective commissioners acting for any district from which any such person shall again and from time to time remove, to observe and follow the like provisions for transferring the instalments due and payable on such composition, for the year commencing from the fifth day of April next following such removal, to the district, parish, ward, and place to which such person shall again remove, and for the commissioners acting for the last-mentioned district to add the same to the assessment, and cause the same to be raised in such last-mentioned district, by the same ways and means as are herein provided with respect to a first removal; and all and every the said provisions last herein contained, as applied to a first removal, shall be observed, followed, and applied to and upon every subsequent removal of the same person or persons, as well for enforcing the payment of all arrears of the said compositions, as for charging and raising the future instalment or instalments, as part of the assessment of the parish, ward, or place, to and in which the person or persons so compounding shall actually remove and reside, as for exonerating and discharging the assessments and duplicates for the parish, ward, and place from which such person or persons shall have so again removed."

Privileges herein mentioned allowed to persons having substituted and compounded for a four-wheel carriage in place of a two-wheel carriage under c. 11; and to persons compounding for male servants, under Schedule (C.), 52 Geo. 3, c. 93.

Sect. 7. "That where any person or persons having compounded under the said acts for a carriage with two wheels, shall have substituted a four-wheel carriage in lieu thereof, and have compounded for the same, and for payment of the difference of duty, under the power given for that purpose by an act passed in the last session of Parliament, intituled 'An Act for repealing certain of the Duties of Assessed Taxes, for reducing certain other of the said Duties, and for relieving Persons who have compounded for the same,' it shall be lawful for every such person or persons to have and enjoy the same privileges during the continuance of their, his, or her said contract, as they, he, or she would have enjoyed under the said acts, if they respectively had originally compounded for a carriage with four wheels; and all and every person or persons who have or hath compounded under the said acts, or who shall compound under this act for a male servant or male servants, chargeable with duty under Schedule (C.), No. 1, of an act passed in the fifty-second year of the reign of his late majesty King George the Third, may employ any male person or male persons, not being servants to persons so compounding, as occasional waiters, or in any of the capacities enumerated in the said Schedule (C.), No. 1, free of any duty, provided such respective employments shall not exceed or extend beyond those allowed and defined by the rules contained in the schedule marked (C.), No. 3, of the said last-mentioned act, in respect of such male persons last mentioned; and all assessments made or to be made on such persons so compounding as last aforesaid, during the continuance of his, her, or their composition, in respect of any such occasional waiters or male persons aforesaid, shall be null and void."

Commissioners and other officers acting under the former composition acts, to act in like manner in the execution of this act.

Sect. 8. "That the several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes, and the said recited acts for compounding for the said duties, shall be commissioners for putting in execution this act, and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places, in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put in execution the said acts shall respectively be assessors, collectors, surveyors, inspectors, and inspectors-general, to put in execution this act within the limits of their respective divisions, districts, and places to which they are or shall be appointed; and the respective commissioners and other persons authorized by the said recited acts to contract and agree for such compositions, or to do or perform any other matter or thing for carrying the said recited acts into execution, shall severally and respectively contract and agree for the compositions to be entered into under this act, and do and perform all such other matters and things as are required to be done and performed in the execution of this act, within the

limits of their respective jurisdictions; and all the powers and authorities given and granted to them by or under the said recited acts, so far as they apply, and are not repugnant to the provisions of this act, shall and they are hereby declared to be levied and continued for and during the respective terms herein limited, in as ample and effectual a manner as if the same powers and authorities were expressly re-enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same had been herein expressly given, granted, and applied by this act; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for putting this act into execution, in the like and in as full and ample a manner as they or any of them are or were or was authorized to put in execution the said several recited acts."

4 Geo. 4, c. 45.

Sect. 9. "That all and every the provisions, directions, rules, regulations, methods, clauses, matters, and things contained in the said recited acts, although expressly applied to the compositions made under the said acts, or either of them, shall severally and respectively be construed and deemed to apply to the compositions to be entered into under this act, and (except where other provisions, directions, rules, regulations, methods, clauses, matters, and things, are substituted in and by this act) shall severally and respectively be used and practised in ascertaining the amount on which any composition is to be made, and the additional rate to be imposed thereon, and in doing and performing all other matters and things necessary for carrying this act into execution, and shall be construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same were severally repeated in and expressly applied to the provisions of this act; and where other provisions, directions, rules, regulations, methods, clauses, matters, or things, are substituted by this act, in lieu of any provisions, directions, rules, regulations, methods, clauses, matters, or things, contained in the said acts, the same respectively shall be construed, used, and practised, in such manner and to the like effect in all respects, as if the said recited acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said recited acts, in lieu whereof any part or parts of this act are or is substituted."

Provisions of former composition acts to remain in force, except as varied by this act.

Sect. 10. "That all and every the provisions in the said act contained, for repealing the several duties of 3s., and of 2s. 10d., and 2d., respectively, chargeable by the several acts therein recited for and in respect of horses, mares, geldings, or mules, shall be deemed and taken to extend to the repeal of the said duties of 3s. on all horses, mares, or geldings, under the height of thirteen hands in the said Schedule (F.) described; anything in the said recited acts contained to the contrary notwithstanding."

The repeal of the duties of 3s. on horses, mares, and geldings, by c. 11, s. 2, declared to extend to the same duty on ponies.

Sect. 11. "That this act may be altered, varied, or repealed, by an act or acts to be passed in this present session of Parliament."

Act may be altered, &c., this session.

" The SCHEDULE to which this Act refers.

" FORM of Contract of Composition under the Act of 4 Geo. IV.

		Amount of Duties.	Know all men, that we, two of the commis- sioners acting in the execution of the acts in relation to assessed taxes for the division of , in the county of , have contracted and agreed with , of the said division, in pursuance of an act passed in the fourth year of George the Fourth, for the composition of assessed taxes, as stated in the margin hereof, and additional rate: which several amounts are to be paid to the collectors of the said , or to the collectors of any parish or place to which the said shall re- move, and to which any part of the said com- position shall thereupon be transferred, under the provisions of the said act, by two instal- ments; viz.
		£ s. d.	
Windows	No.		
Rent	Amount		
Total Amount of Duty		£	
Composition Duty of 5 per Cent.			
Total Amount of }		£	
Composition }			
		Amount of Duties.	
ESTABLISHMENT.		£ s. d.	
No.	Schedules.		
Servants	(C.), No. 1.		
Male Persons	(C.), No. 3.		
4-Wheel Carriages	(D.), No. 1.		
2-Wheel Carriages	(D.), No. 2.		
Tax-Carts	(D.), No. 4.		
Horses for Riding	(E.), No. 1.		
Race-Horses	(E.), No. 3.		
Dogs	(G.)		
Hair-Powder	(I.)		
Armorial Bearings	(K.)		
Total Amount of Duties		£	
Composition Duty of 5 per Cent.			
Total Amount of Composition for } Establishment }			
Ditto for House }			
Total Amount of }		£	
Composition }			

, or sued for and recovered by any of the ways and means by which the monies due on assessments may be sued for and recovered.

" Witness,

" Clerk.

} Commissioners of the
} within Division.
} The party hereto."

" Witness,

" Clerk.

" N. B. With the consent of the commissioners, the collector of the parish may witness the signature of the party to the contract."

5 Geo. 4, c. 44.

The 5 Geo. IV. c. 44, intituled, " An Act for allowing Persons to compound for their Assessed Taxes for the Remainder of the Periods of Composition limited by former Acts, and for granting Relief in certain Cases;" enacts, " whereas by an act passed in the last session of Parliament, intituled, " An Act for allowing Persons to compound for their Assessed Taxes for the Remainder of the Periods of Composition limited by former Acts, and for giving Relief in certain Cases therein mentioned," the persons therein described, who had not entered into composition under the provisions of the acts therein mentioned, within the times thereby limited, were authorized, on giving notice on or before the first day of September, 1823, to compound on their respective assessments, to be made for the year commencing from the fifth day of April, 1823, for the then remainder of the periods in the said acts named (that is to say), for the term of five years for the duties on houses and windows, and for the term of four years

for the other assessed taxes: and whereas it is expedient further to extend the provisions of the said acts, for enabling persons now to enter into composition for the remainder of the said periods which were unexpired on the fifth day of April, 1824, in the manner herein provided;" enacts, "that from and after the passing of this act, it shall and may be lawful for any person or persons who shall be duly assessed to the said rates and duties for the year commencing the fifth day of April, 1824, and who shall give the notice of their, his, or her intention to compound within the time and in the manner hereinafter provided, and they are hereby respectively declared to be competent to compound for the rates and duties assessed on their, his, or her dwelling-house for the term of four years, and for their, his, or her other assessed taxes allowed to be compounded for by the said acts, and therein particularly enumerated, for the term of three years respectively, to commence from the fifth day of April, 1824, together with an additional annual duty of one shilling for every 20s. of the respective amounts so assessed, and so after that rate for any greater or lesser sum than 20s.; and the assessments so to be made and compounded for under this act shall severally be and remain to the same annual amount for the respective periods last-mentioned, to all intents as if the said duties had been compounded for under the said acts."

Sect. 2. "That all and every person and persons desirous of compounding under this act shall, on or before the second day of August, 1824, deliver or cause to be delivered, free of charge, to the surveyors acting for the respective districts comprising the parishes or places wherein such persons shall respectively reside, a notice in writing, according to the form and in the manner by the said acts directed, declaring their, his, or her intention to compound under this act, and which notice shall be acted upon, observed, and followed, for the purposes of composition, on a full and complete assessment for the said year, commencing from the fifth day of April, 1824; and the said commissioners shall and are hereby authorized and required to contract with such persons respectively, under the provisions in the said recited acts and this act respectively contained, for the periods and in the manner herein limited, and according to the form of contract set forth in the schedule to this act annexed, *mutatis mutandis*, to all intents as if such notices had been delivered within the times by the said acts limited, and under the several provisions thereof."

Sect. 3. "That the several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes, and the said recited acts for compounding for the said duties, shall be commissioners for putting in execution this act, and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewartries, cities, boroughs, cinque-ports, towns, and places, in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put in execution the said acts, shall respectively be assessors, collectors, surveyors, inspectors, and inspectors-general, to put in execution this act within the limits of their respective divisions, districts, and places to which they are or shall be appointed; and the respective commissioners, and other persons authorized by the said recited acts to contract and agree for such compositions, or to do or perform any other matter or thing for carrying the said recited acts into execution, shall severally and respectively contract and agree for the compositions to be entered into under this act, and do and perform all such other matters and things as are required to be done and performed in the execution of this act, within the limits of their respective jurisdictions; and all the powers and authorities given and granted to them by or under the said recited acts, so far as they apply and are not repugnant to the provisions of this act, shall and they are hereby declared to be revived and continued, for and during the respective terms herein limited, in as ample and effectual a manner as if the same powers and authorities were expressly re-enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act, as part thereof, in the manner as if the same had been herein expressly given, granted, and applied by this act; and the said commissioners and others before mentioned are hereby empowered and required to do and perform all things necessary for

5 Geo. 4, c. 44.

Persons may compound upon assessments commencing 5th April, 1824, as to articles allowed by former acts.

Duties on houses and windows for four years, other assessed taxes three years.

Persons intending to compound under this act, to give the notice required by the former acts on or before the 2d August, 1824.

Commissioners and other officers acting under the former composition acts, to act in like manner in the execution of this act.

Former acts applied to this act.

5 Geo. 4, c. 44.

Exempt on by the 57 Geo. 3, c. 25, extended to persons using houses under like circumstances, as offices and counting-houses, in their professions or other callings.

Exemption not to extend to chambers in inns of court, or colleges in the universities.

Occupiers of farms under 100*l.* per annum, exempted from the duty on dogs *bona fide* kept for the care of sheep.

For removing doubts as to the employment of porters ;

and of persons acting under clerks and managers in mines or adventures.

putting this act in execution, in the like, and in as full and ample a manner as they or any of them are or were or was authorized to put in execution the said several recited acts."

Sec. 4. "That upon all assessments to be made for any year commencing from and after the fifth day of April, 1824, the provisions in the said act contained, for granting exemptions from the said duties to persons in trade, in respect of houses, tenements, or buildings in the said act described, shall and may be extended and applied by the respective commissioners and officers acting in the execution of the said act and of this act, on due proof, to all and every person, or any number of persons in partnership together, for and in respect of any house, tenement, or building, or part of a tenement or building, in the said act described, which shall be used by such person or persons as offices or counting-houses for the purposes of exercising or carrying on any profession, vocation, business, or calling, by which such person or persons shall seek a livelihood or profit, no person inhabiting, dwelling, or abiding therein, except in the day-time only, for the purpose of such profession, vocation, business, or calling, such person or each such persons in partnership respectively residing in a distinct and separate dwelling-house, or part of the dwelling-house charged to the said duties: provided nevertheless, that the exemptions herein authorized shall not extend to any chamber or apartment in any of the inns of court or of chancery, or to any college or hall in either of the Universities of Oxford or Cambridge, now chargeable with any of the said duties; and the said exemptions hereby authorized shall be claimed and allowed on due proof, and the assessments thereupon discharged by the same rules, and in like manner and form, are allowed by the said act to persons in trade; and all and every the provision in the said act contained shall be observed, followed, and practised by the respective commissioners, inspectors, surveyors, assessors, and other persons in the said act described, in granting exemptions and discharging assessments under the provisions of this act, to all intents, as if such provisions formed part of the said act passed in the fifty-seventh year aforesaid, anything herein contained to the contrary notwithstanding."

Sec. 5. "That upon all assessments to be made for any year or years commencing from and after the fifth day of April, 1824, any person occupying a farm of less value than 100*l.* per annum, and making a livelihood solely thereby, as owner or tenant, in the manner described in the said acts, and as applied to exemptions from the duties on horses, mares, or geldings, kept by such occupiers, and rode on the occasions therein mentioned, shall be exempt from the duty by the said acts granted in respect of any dog or dogs, not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier, which shall have been or shall be *bona fide* and wholly kept and used by such occupier, or by any person employed by him or her as a shepherd, on his or her said farm, in the care of sheep; provided that every such exemption shall be claimed and allowed in like manner as is directed by the acts relating to the assessed taxes in other cases of exemption therein mentioned."

Sec. 6. "That for and in respect of any assessment to be made for any year commencing from and after the fifth day of April, 1824, any male person hired by the employer or employers in the said acts described, by the year or by the week, or otherwise, shall not be deemed and taken to be a person chargeable with the said duties, for or by reason of his employment in the loading, unloading, stowage, or removal of goods, wares, or merchandize, from, to, or upon any horse, cart, waggon, or other carriage, in the receipt or delivery of such goods, wares, or merchandize, at the shop, warehouse, or place of deposit, unless such person shall also be employed in the drawing or taking of samples of goods, wares, or merchandize, exhibited for the purposes of sale at such shop or warehouse, or elsewhere; nor shall any person wholly employed in any mine, adventure, or concern, under the superintendence and authority of one or more manager or managers, or one or more clerk or clerks in such mine, adventure, or concern (where the person or persons liable to the said duties by the said acts shall be assessed for the duty for one overseer or manager at the least, and also for one clerk at the least), be deemed and taken

to be an overseer or manager, or a clerk under an overseer or manager chargeable with duty, by reason of the employment of any such person under such manager or clerk in the overlooking and checking of labourers in the performance of the work and labour allotted to them in any such mine, adventure, or concern, and in accounting for the same to any such manager or clerk; anything in the said acts to the contrary notwithstanding."

Sect. 7. "That from and after the passing of this act, it shall and may be lawful for any inspector or surveyor, acting in the execution of the said acts and of this act, without any previous information and conviction of the offender in the said penalty, or any part thereof, to charge, according to the provisions of the said acts, any person so chargeable with the said duty payable by persons in respect of their taking or killing game, or doing acts in the said acts mentioned, and who shall have omitted to pay the said duty, and obtain the certificate as by the said acts directed; provided every such charge be made within the period limited by the said acts, and in the single duty only; and which charges shall be allowed by the respective commissioners in the execution of the said acts, and shall be subject to appeal according to the provisions and directions thereof, in like manner as any charges are authorized to be made by any inspector or surveyor, and appeals therefrom heard and determined under the said acts; anything therein contained to the contrary notwithstanding."

Sect. 8. "That all and every the provisions, directions, rules, regulations, methods, clauses, matters, and things contained in the said recited acts, although expressly applied to the compositions made under the said acts, or either of them, and to relief from duties compounded for, and for which exemptions are subsequently provided, shall severally and respectively be construed and deemed to apply to the compositions to be entered into under this act, and to the duties for which exemptions are provided by this act, and (except where other provisions are substituted in and by this act) shall severally and respectively be used and practised in ascertaining the amount on which any composition is to be made, and the additional rate to be imposed thereon, and also in reducing any assessment of composition entered into before the passing of this act, in respect of duties for which exemption is herein provided, with the additional duty payable on the amount of such last-mentioned duties, and also in doing and performing all other matters and things necessary for carrying this act into execution, and shall be construed, deemed, and taken to belong to this act as part thereof, in like manner as if the same were severally recited in and expressly applied to the provisions of this act; and where other provisions, directions, rules, regulations, methods, clauses, matters, or things, are substituted by this act, in lieu of any provisions, directions, rules, regulations, methods, clauses, matters, or things, contained in the said acts, the same respectively shall be construed, used, and practised in such manner and to the like effect in all respects, as if the said recited acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said recited acts, in lieu whereof any part or parts of this act are substituted."

Sect. 9. "That this act may be altered, varied, or repealed, by any act or acts to be passed in this present session of Parliament."

5 Gen. 4, c. 41.

The inspectors or surveyors may, without a previous proceeding for the penalty, charge in single duty persons omitting to take out game-certificates.

How charge to be made.

Provisions of former composition acts, except as hereby varied, applied to this act, in entering into compositions, and in granting relief under existing compositions.

Act may be altered, &c. this session.

**" The SCHEDULE to which this Act refers.
" FORM of Contract of Composition under the Act of 5 Geo. IV.**

<p>Windows No.</p> <p>Rent Amount</p> <p>Total Amount of Duty . . . £</p> <p>Composition Duty of 5l. per Cent.</p> <p>Total Amount of } . . £</p> <p>Composition }</p>	<p>Amount of Duties.</p> <p>£ s. d.</p>	<p>Know all men, that we, two of the commissioners acting in the execution of the acts in relation to the assessed taxes for the division of , in the county of , have contracted and agreed with , of , in the said division, in pursuance of an act passed in the fifth year of King George the Fourth, for the composition of assessed taxes, as stated in the margin hereof, and additional rates: which several amounts are to be paid to the collectors of the said , or to the collectors of any parish or place to which the said shall remove, and to which any part of the said composition shall thereupon be transferred, under the provisions of the said act, by two instalments; viz.</p> <p>1st instalment, on or before the tenth day of October;</p> <p>2d instalment, on or before the fifth day of April;</p> <p>and so yearly, during the respective terms of four years and three years, from the fifth day of April, 1824, mentioned in the said act.</p> <p>The condition of the above composition is that the above-named shall duly pay, or cause to be paid, to the collector for the said compositions, or one of them, on or before the days above mentioned, specified, the yearly sum of by two instalments, in even portions, to their or his receipt in writing for the same; otherwise the said composition shall be void of the goods and chattels of the said</p>
<p align="center">ESTABLISHMENT.</p> <p>No. Schedules.</p> <p>Servants (C.), No. 1.</p> <p>Male Persons (C.), No. 3.</p> <p>4-Wheel Carriages (D.), No. 1.</p> <p>2-Wheel Carriages (D.), No. 2.</p> <p>Tax-Carts (D.), No. 4.</p> <p>Horses for Riding } (E.), No. 1.</p> <p>or Drawing }</p> <p>Race-Horses (E.), No. 3.</p> <p>Dogs (G.) . . .</p> <p>Hair-Powder (I.) . . .</p> <p>Armorial Bearings (K.) . . .</p> <p>Total Amount of Duties £</p> <p>Composition Duty of 5l. per Cent.</p> <p>Total Amount of Composition for } Establishment }</p> <p>Ditto for House }</p> <p>Total Amount of } Composition } . £</p>	<p>Amount of Duties.</p> <p>£ s. d.</p>	<p>that the above-named shall duly pay, or cause to be paid, to the collector for the said compositions, or one of them, on or before the days above mentioned, specified, the yearly sum of by two instalments, in even portions, to their or his receipt in writing for the same; otherwise the said composition shall be void of the goods and chattels of the said</p>

, or sued for and recovered by any of the ways and means by which the same is on assessments may be sued for and recovered.

Dated the . . . day of . . .

" Witness, } Commissioners of the
" Clerk. } within Division.
" Witness, }
" Clerk. } The party herein."

" N. B. With the consent of the commissioners, the collector of the parish may witness the signature of the party to the contract."

Compositions for houses and windows may be continued for two years on notice;

By the 7 Geo. IV. c. 22, s. 1, after reciting that "whereas, under the provisions of an act passed in the first and second years of his present majesty, and in other subsequent acts, the compositions which have been respectively renewed and entered into, for relieving persons from annual assessments for the assessed taxes, will expire with respect to the duties on windows or lights, and on inhabited houses, on the fifth day of April, 1828; and for the other duties assessed taxes in the said acts mentioned, on the fifth day of April, 1827; and whereas it is expedient to allow persons to have the option of enlarging the periods for the determination of their contracts of composition, and also to afford persons who have not compounded the benefit of compounding in a certain term under the provisions of this act;" it is enacted, "that in every case where any person or persons who hath or have so compounded under the said acts, shall give notice in the manner hereinafter directed, he, she, or they

shall be at liberty to continue and extend his, her, or their present composition, on the terms and in the manner following: *videlicet*, contracts of compositions for the duties on windows or lights, and inhabited houses, for the further term of two years, to commence from the fifth day of April, 1828; contracts of composition for other duties of assessed taxes renewed under the said acts, where the former duties and the additional duty by the said acts granted are payable, and all other contracts of composition in force for the said other duties of assessed taxes, where no increase of any article or articles of the establishment compounded for shall have taken place within the periods of any such composition, for the further term of three years, to commence from the fifth day of April, 1827; and all and every such contracts of composition shall and may be so continued and extended, on payment of duties to the same annual amount, for the said further periods of two years and three years respectively, as the duties now severally payable on such contracts, and no more; and all other contracts of composition, not being the descriptions aforesaid, in force for the said other duties of assessed taxes, shall and may be renewed and extended for the like further term of three years, commencing from the said fifth day of April, 1827, on payment of duties to the same annual amount as those now payable on such contracts, together with an additional annual duty of 1s. for every 20s. of the aggregate amount of such duties so payable, and so after that rate for any greater or lesser sum than 20s."

7 Geo. 4, c. 22.
compositions for
other assessed
taxes may be
continued for
three years.

Additional duty.

To whom notice
of continuing
contract to be
delivered.

Sect. 2. "That in every case where any person or persons shall be desirous of continuing his, her, or their compositions under the provisions of this act, he, she, or they shall, before the first day of May, 1827, in England, Wales, and Berwick-upon-Tweed, and before the first day of August in the same year in Scotland, deliver or cause to be delivered to the assessor or assessors, collector or collectors, of the parish, township, or place, in England, Wales, and Berwick-upon-Tweed, and in Scotland to the surveyor acting for the division wherein such compositions shall be respectively payable, a notice according to the form in the schedule to this act annexed, marked No. I., declaring his, her, or their desire to continue such composition; and where any such person or persons shall claim the continuance of his, her, or their composition without payment of any additional duty under this act, on the ground of not having increased his, her, or their establishment in respect of any article or articles of the description compounded for, such person or persons shall also, before the respective days, and in the manner aforesaid, deliver or cause to be delivered to the same assessor or assessors, collector or collectors, or surveyors, as aforesaid, a declaration to that effect, according to the form in the said schedule to this act annexed, marked No. II.; and all such declarations shall, on delivery, be subject to the like examinations and rules for ascertaining the accuracy thereof, and to objections to the same, as provided under the same acts for the examination of notices and returns in securing due compositions; and every such notice and declaration, respectively signed by the person or persons so compounding (or by his, her, or their authorized agent, in the manner in the said acts prescribed), shall, on delivery to any assessor or assessors, collector or collectors, or surveyors, as aforesaid, be binding on the person or persons compounding (except in cases of false declarations hereinafter provided), to all intents as if a renewed contract of the further periods herein allowed were entered into under the provisions of the said acts: provided always, and where any person or persons shall deliver any such declaration that shall be false and untrue, such person or persons shall lose the benefit of continuing his, her, or their composition under the provisions of this act; and such person or persons shall also be liable to the like penalty and penalties as is and are imposed by the acts relating to the said duties on persons liable to the said duties making an untrue return or false declaration of any particulars required by the said acts."

Also a declaration
where establish-
ment has not been
increased.

How far notice
binding on party.

Delivering untrue
declaration.

Penalty.

Sect. 3. "That the respective assessors and collectors, by whom such notices and declarations shall from time to time be received, are hereby strictly enjoined and required forthwith and with all diligence to deliver the said notices to the commissioners of the respective districts, or their clerks, and all and every the said declarations to the surveyor acting for the district in which the same shall

To whom assess-
ors and collec-
tors to deliver
notices and de-
clarations.

7 Geo. 4, c. 22.

Notices sufficient authority to the commissioners to continue compositions.

Proviso as to additional duty.

New compositions may be entered into.

On notice by party.

Additional annual duty.

Persons intending to enter into new compositions under this act to give notice.

Commissioners to contract therein as by former acts.

Persons having compounded for a two-wheeled carriage may set up a four-wheeled carriage, on payment of difference of duty. With additional duty.

be received; and every such notice and declaration, after the expiration of the corresponding periods for the examinations thereof, as by the said acts is provided with respect to like notices or returns under the said acts, for the purposes of full and due assessment and composition, shall be a sufficient authority for the respective commissioners, and they are hereby authorized and required, to charge such persons respectively in the annual composition assessments for the said further terms; and the payments of the instalments shall be made and enforced half-yearly under the provisions of the said acts and of this act, on the like days of payments, and to all intents as if the respective contracts had been originally made and entered into for the periods herein provided, and to which such notices shall respectively extend; and all persons so charged to the composition duties to be hereby continued, and paying the same, and the additional duties hereby granted in the cases where payable, shall be protected against annual assessments during the periods of continued composition, in like manner as such persons are now protected under their existing compositions against annual assessments."

Sect. 4. "That, from and after the passing of this act, it shall and may be lawful for any description of person or persons competent to compound within the times and in manner prescribed by the said former acts, who shall respectively be duly assessed to the said rates and duties on windows or lights, or on any article or articles allowed to be compounded for under the said acts respectively, for the year commencing the fifth day of April, 1826, and who shall give the notice of his, her, or their intention to compound within the time and in the manner hereinafter provided, to compound for the rates and duties assessed on his, her, or their dwelling-house, and also for his, her, or their other assessed taxes of the descriptions allowed to be compounded for by the said acts, and therein particularly enumerated, for the term of four years respectively, to commence from the said fifth day of April, 1826, on the annual payment of such duties respectively, together with an additional annual duty of 1s. for every 20s. of the respective amounts so assessed, and so after that rate for any greater or lesser sum than 20s.; and the assessments so to be made and compounded for under this act, shall severally be and remain to the same annual amount for the said term of four years, and under the like protection to the parties compounding, from and against annual assessments in respect of the like description of duties, to all intents as if the said duties had been compounded for under the said acts."

Sect. 5. "That all and every person and persons desirous of compounding under this act, shall, on or before the first day of August, 1826, deliver, or cause to be delivered, free of charge, to the surveyors acting for the respective districts comprising the parishes or places wherein such persons shall respectively reside, a notice in writing, according to the form and in the manner by the said acts directed (*mutatis mutandis*), declaring his, her, or their intention to compound under this act for the term of four years, commencing as aforesaid; and which notice shall be acted upon, observed, and followed, for the purpose of composition, on a full and complete assessment, for the said term of four years, commencing as aforesaid; and the said commissioners shall and are hereby authorized and required to contract with such persons respectively, under the provisions in the said recited acts and this act respectively contained, for the period and in the manner herein limited, and according to the form of contract applicable to the case of new compositions prescribed by the said acts, to all intents as if such notices had been delivered under the provisions of the said acts."

Sect. 6. "That it shall be lawful for any person or persons, who having compounded under the said acts in respect of a carriage with two wheels, and who shall continue his, her, or their composition under the provisions of this act; and also for any person or persons who shall compound under this act for any such carriage, and who respectively shall be desirous, during any year commencing from and after the fifth day of April, 1826, to set up and keep a carriage with four wheels, giving previous notice of such his, her, or their intention to the surveyor of the said duties acting for the district in which such person shall reside, one calendar month at least before the setting up and

keeping such carriage, and on payment of the difference of duty compounded for on a two-wheeled carriage, and the duty chargeable on a four-wheeled carriage, together with the like additional composition duty *per centum* payable by such contract, and to be computed on such difference, to be indorsed by certificate on every such contract of composition, by any two of the commissioners acting in the execution of this act, in the district in which such contract shall have been entered into or continued, and to commence and be made payable within and for the whole of the year commencing from the fifth day of April, 1826, in which such setting up of a four-wheeled carriage shall take place, by half-yearly instalments, during the continuance of the said contract; and which additional payments shall be enforced in like manner as if they were originally inserted in every such contract; and any person seeking the benefit of this provision shall and may, during the continuation of the increased composition, have the like privileges as those which are now enjoyed by persons compounding under the said acts: provided always, and in case of any such setting up of a four-wheeled carriage in the year commencing on the fifth day of April, 1826, and before any contract shall be completed under this act, then such contract shall and may be entered into, in the first instance, for a four-wheeled carriage, to all intents as if the party was assessed for the same."

Provide.

Sec. 7. "That the several persons who for the time being shall be commissioners for putting in execution the acts relating to assessed taxes, and the said acts for compounding for the said duties, shall be commissioners for putting in execution this act and the powers herein referred to or contained, in all and every the respective counties, ridings, divisions, shires, and stewardries, cities, boroughs, cinque-ports, towns, and places in Great Britain; and the several assessors, collectors, surveyors, inspectors, and inspectors-general for the time being, appointed or to be appointed to put in execution the said acts, shall respectively be assessors, collectors, surveyors, inspectors, and inspectors-general, to put in execution this act within the limits of the respective divisions, districts, and places to which they are or shall be appointed; and the respective commissioners and other persons authorized by the said recited acts to contract and agree for such compositions, or to perform any other matter or thing for carrying the said acts into execution, shall severally and respectively continue, and also contract and agree for the respective compositions to be continued, and those to be entered into under this act, and to do and perform all such other matters and things as are required to be done and performed in the execution of this act within the limits of their respective jurisdictions; and all the powers and authorities given and granted to them by or under the said acts, so far as they apply and are not repugnant to the provisions of this act, shall, and they are hereby declared to be renewed and continued for the purposes of this act, in as ample and effectual manner as if the same powers and authorities were expressly re-enacted by this act, and shall severally be applied, construed, deemed, and taken to belong to this act, as part thereof, in like manner as if the same had been herein expressly given, granted, and applied by this act; and the said commissioners, and others before mentioned, are hereby empowered and required to do and perform all things necessary for putting this act into execution, in the like and in as full and ample a manner as they or any of them are, or were, or was authorized to put in execution the said several acts."

Commissioners and other officers acting under former composition acts to execute this act.

Sec. 8. "That all and every the provisions and directions, rules, regulations, methods, clauses, matters, and things contained in the said acts, although expressly applied to the compositions made under the said acts, or either of them, shall severally and respectively be construed and deemed to apply to the compositions to be entered into under this act, and (except when other provisions, directions, rules, regulations, methods, clauses, matters, and things are substituted in and by this act) shall severally and respectively be used and practised in ascertaining, assessing, and charging the amount on which any composition is to be continued or made, and the additional rate to be imposed thereon respectively, and in doing and performing all other matters and things necessary

Provisions of former composition acts to be applied to this act, except as hereinafter varied.

7 Geo. 4, c. 22.

Act may be altered, &c. this session.

for carrying this act into execution; and shall be construed, deemed, and taken to belong to this act as part thereof, in like manner as if the same were severally repeated in and expressly applied to the provisions of this act; and where other provisions, directions, rules, regulations, methods, clauses, matters, and things are substituted by this act, in lieu of any provisions, directions, rules, regulations, methods, clauses, matters, and things contained in the said acts, the same respectively shall be construed, used, and practised in such manner and to the like effect in all respects, and within corresponding and like times and periods, as if the said acts and this act had been incorporated, and as if this act had expressly abrogated and made void the several parts of the said acts in lieu whereof any part or parts of this act are or is substituted."

Sect. 9. "That this act may be altered, amended, or repealed, by any act or acts to be passed in this present session of Parliament."

"Schedule referred to by this Act.

"No. I.

"FORM of NOTICE of Continuance of Contract under this Act.

"To the commissioners acting for the division of _____, in the county of _____, and to the assessor [or, collector] of the parish [township, or, place] in the said division [or, if in Scotland, To the surveyor of the said division of _____, as the case may be].

"Take notice, that I am [or, we are] desirous of continuing, under the powers, conditions, and provisions of an act passed in the seventh year of the reign of King George the Fourth, my [or, our] contract [or, contracts, as the case may be], of composition for assessed taxes now in force and payable in the said parish [township or place]. (To be signed.)"

"No. II.

"FORM of DECLARATION to be delivered by Persons desirous of continuing their Compositions free from additional Duty of Five per Centum, in cases where no Increase of the Article or Articles compounded for shall have taken place.

"To _____, the assessor [or, collector] of the assessed taxes for the parish [township or place] of _____, in the division of _____ [or, if in Scotland, to the surveyor of the assessed taxes for the division of _____].

"I [or, we], the undersigned, having delivered to you a notice of my [or, our] intention to continue my [or, our] contract [or, contracts, as the case may be] of composition for my [or, our] assessed taxes now in force, under the provisions of an act passed in the seventh year of the reign of King George the Fourth, do hereby declare that I [or, we] have not at any time during the period of my [or, our] said composition set up or increased any article or articles of my [or, our] establishment of the description compounded for, over and above the number included in my [or, our] said composition, and on which account I [or, we] hereby claim the continuance thereof, without payment of any additional duty. (To be signed.)"

By the 10 Geo. IV. c. 21, "An Act to continue Compositions for the Assessed Taxes for a further Term of One Year," after reciting that whereas the several duties of composition for the assessed taxes payable under the provisions of an act passed in the seventh year of the reign of his present majesty, intitled, 'An Act to enable Persons to continue their Compositions for Assessed Taxes for further Periods, and for allowing Persons who have not compounded to enter into Composition for a limited Term, will expire on the fifth day of April, 1830; and it is expedient to continue and extend such compositions for the further term of one year, to determine on the fifth day of April, 1831, in manner and subject to the provisions hereinafter mentioned:" it is enacted, that the several duties now payable under all and every contract of composition for the said duties of assessed taxes, by virtue of any act or acts in force at the time of passing this act, and all and every such contract of composition respectively (except in the cases hereinafter provided), shall and are hereby declared to be continued to his majesty, to the same annual amounts as are now payable under such contracts and compositions, for the further period of

Duties of assessed taxes payable under contracts of composition further continued for one year.

one year, to commence from the said fifth day of April, 1830; and all persons paying the said several duties of composition for the said further term of one year, by two equal half-yearly payments, on or before the tenth day of October, 1830, and on or before the fifth day of April, 1831, respectively, shall have the full benefit of their respective contracts and compositions, to all intents as if the same had been originally made or entered into under the said acts, or renewed or continued for a term or terms to expire on the said fifth day of April, 1831."

10 Geo. 4, c. 21.

Persons paying the said duties at the appointed time to have the benefit of their contracts as if originally made.

Sect. 2. "That this act shall not extend to any person who shall be desirous of determining his or her contract of composition on the fifth day of April, 1830, and who shall, on or before the tenth day of October, 1829, give notice in writing of such his or her desire to the assessor or collector of the parish or place, or to the surveyor acting in the execution of this act, for the district in which such composition shall be payable."

Limiting the extension of this act.

Sect. 3. "That all and every the powers and provisions contained in or authorized by the said act passed in the seventh year of the reign of his present majesty, or any act or acts therein mentioned, shall be observed, followed, and executed by the several commissioners, surveyors, inspectors, collectors and other officers acting in the execution of the said acts and of this act, or otherwise, for charging, collecting, levying, enforcing payment, and paying and accounting for the said duties hereby made payable for the further term of one year, by the half-yearly instalments and in the manner aforesaid, to all intents as if such contracts and compositions respectively had been originally entered into, renewed, or continued in force under the said acts until the fifth day of April, 1831."

Powers and provisions of former acts to be executed by commissioners, &c., for the further term.

Sect. 4. "That this act may be amended, altered, or repealed by any act or acts to be passed in this present session of Parliament."

Act may be altered.

By the 1 Wil. IV. c. 35, intituled, "An Act to continue Compositions for Assessed Taxes for a further Term of One Year, and to grant Relief from and alter and repeal the said Duties in certain Cases;" after reciting that, "whereas the duties of composition for the assessed taxes in force under the provisions of an act passed in the last session of Parliament, intituled, 'An Act to continue Composition for the Duties of Assessed Taxes for a further Term of One Year,' will expire on the fifth day of April, 1831; and it is expedient to continue such compositions for a further term, subject to the provisions hereinafter contained;" it is enacted, "that the several duties now payable under every contract of composition for the said duties of assessed taxes, by virtue of the said act passed in the last session of Parliament, and every contract and composition respectively (except in the cases hereinafter mentioned), shall and are hereby declared to be continued to his majesty, to the like annual amounts as are now payable under such contracts and compositions, for the further period of one year, to commence from the said fifth day of April, 1831; and all persons paying the said several duties of composition for the said further term of one year, by two equal half-yearly payments, on or before the tenth day of October, 1831, and on or before the fifth day of April, 1832, respectively, shall have the full benefit of their respective contracts and compositions to all intents as if the same had been originally in force for a term or terms to expire on the said fifth day of April, 1832."

Duties of assessed taxes, payable under contracts of composition, continued to 5th April, 1832.

Persons paying the said duties at the appointed time, to have the benefit of their contracts as if originally made. Limiting the extension of this act.

Sect. 2. "That this act shall not extend to any person who shall be desirous of determining his or her composition on the fifth day of April, 1831, and who shall, on or before the tenth day of October, 1830, give notice in writing of such his or her desire to the assessor or collector of the parish or place, or to the surveyor acting in the execution of this act for the district in which such composition shall be payable."

By sect. 3, the duties are repealed in respect of sons of employers under twenty-one years of age. (a)

By sect. 4, the duties on carriages and horses are reduced in certain cases. (a)

(a) See these sections in full, *ante*, p. 812.

1 Wil. 4, c. 25.

Powers and provisions of former acts to be executed by commissioners, &c., for the further term.

Act may be repealed this session.

Sect. 5. "That all and every the powers and provisions contained in or authorized by the said act passed in the last session of Parliament, or any act or acts therein mentioned, shall be observed, followed, and executed by the several commissioners, surveyors, inspectors, collectors, and other officers acting in the execution of the said acts and of this act, or otherwise, for charging, collecting, levying, enforcing payment, and paying and accounting for the said duties of composition hereby made payable for the further term of one year, by the half-yearly instalments and in the manner aforesaid, to all intents as if such contracts and compositions respectively had been originally entered into, renewed, or continued in force under the said acts, until the fifth day of April, 1832."

Sect. 6. "That this act may be amended, altered, or repealed by an act or acts to be passed in this present session of Parliament."

Tea, Hawking of. See *Hawkers and Pedlars*, Vol. II.
And see Excise and Customs, Coffee, Tea, &c. Vol. II.

Tenants, Larceny by,—see Larceny, Vol. III. p. 556.
Distress for Rent on,—see Distress, Vol. I.

Tender of Amends. See *Justices*, Vol. III. p. 496.

Terriers, Proof by. See *Evidence*, Vol. II. p. 41.

Thames.

AS to rivers in general, see *Rivers and Navigation, ante*.

The following statutes contain regulations as to the navigation on the river of Thames, viz.:

[6 & 7 Wil. III. c. 21; 9 Anne, c. 26; 5 Geo. II. c. 20; 6 Geo. II. c. 29; 24 Geo. II. c. 8; 2 Geo. III. c. 28; 11 Geo. III. c. 45; 14 Geo. III. c. 71; 16 Geo. III. c. 43; 17 Geo. III. c. 18; 39 & 40 Geo. III. c. 87; 42 Geo. III. c. 76; 43 Geo. III. c. 115; 47 Geo. III. sess 1, c. 37; 51 Geo. III. c. 119; 3 Geo. IV. c. 55; and the late Consolidating Act, 7 & 8 Geo. IV. c. 75.]

The 3 Geo. IV. c. 55 (the Metropolis Police Act) will be found under title, *Police of the Metropolis, ante*.

7 & 8 Geo. 4,
c. LXXV.

The 7 & 8 Geo. 4, c. LXXV., is so important in its nature, and concerns so large a portion of the magistracy and the public, that it is thought fit here to insert it.

It is entitled "An Act for the better Regulation of the Watermen and Lightermen on the River Thames, between Yantlet Creek and Windsor," and passed June 4, 1827, and reciting,

6 Hen. 8, c. 7.

"Whereas an act was made in the sixth year of the reign of King Henry the Eighth, for regulating the several sums that watermen on the river of Thames should take for their fare from one place to another near to the city of London: and whereas an act was made in the second and third years of the reign of King Philip and Queen Mary, intituled, 'An Act touching Watermen and Bargemen upon the River of Thames;' and thereby the mayor and court of aldermen of the City of London were empowered to elect yearly eight watermen to be overseers and rulers of all the wharfen and watermen upon the said river of Thames between Gravesend and

2 & 3 P. & M.
c. 16.

Windsor, who should allow of or admit and register such watermen as therein is mentioned; and the said mayor and court of aldermen were directed from time to time, at their discretion, to set and assess the prices and sums of money that every person authorized to row by the said overseers and rulers, betwixt Gravesend and Windsor, should take for his labour or fare from place to place: and whereas an act was made in the first year of the reign of King James the First, intituled, 'An Act concerning Wherryemen and Watermen:' and whereas an act was made in the eleventh and twelfth years of the reign of King William the Third, intituled, 'An Act for the Explanation and better Execution of former Acts made and touching Watermen and Wherryemen rowing on the river of Thames; and for the better ordering and governing the said Watermen, Wherryemen, and Lightermen upon the said River between Gravesend and Windsor;' and thereby wherryemen, watermen, and lightermen, working between Gravesend and Windsor, were constituted one company, and the said lightermen were directed to be registered; and the court of lord mayor and aldermen of the city of London were empowered to elect yearly eight watermen, and also three lightermen out of twelve to be nominated by the lightermen, to be overseers and rulers of the wherryemen, watermen, and lightermen; and the said overseers and rulers were required to appoint such assistants, and present to the court of mayor and aldermen such auditors, as therein is mentioned; and the said rulers, auditors, and assistants were empowered to make rules, orders, and constitutions for maintaining good order and obedience amongst the company, to be altered or approved by the said court of mayor and aldermen, and afterwards confirmed or altered by the lord chief justice of either bench: and whereas an act was made in the fourth year of the reign of Queen Anne, intituled, 'An Act for the better ordering and governing the Watermen and Lightermen upon the River of Thames;' and whereas an act was made in the second year of the reign of King George the Second, intituled, 'An Act for making more effectual several Acts passed relating to Watermen, Wherryemen, and Lightermen rowing on the River Thames; and for better ordering and governing such Watermen, Wherryemen, and Lightermen:' and whereas an act was made in the fourth year of the reign of his said majesty King George the Second, intituled, 'An Act to explain and amend a Clause in an Act passed in the Second Year of his Majesty's Reign (for making more effectual several Acts relating to Watermen, Wherryemen, and Lightermen rowing on the River Thames), so far as the same relates to Ferry-Boats and flat-bottomed Boats:' and whereas an act was made in the tenth year of the reign of his said majesty King George the Second, intituled, 'An Act for regulating the Company of Watermen, Wherryemen, and Lightermen rowing on the River Thames, between Gravesend, in the County of Kent, and Windsor, in the County of Berks:' and whereas an act was made in the thirty-fourth year of the reign of his late majesty King George the Third, intituled, 'An Act for better regulating and governing the Watermen, Wherryemen, and Lightermen upon the River of Thames between Gravesend and Windsor;' and thereby the court of lord mayor and aldermen of the city of London were empowered to make rules, orders, and constitutions for the better government and regulation of watermen, wherryemen, and lightermen upon the said river Thames between Gravesend and Windsor, and to alter, repeal, and make void the same, or any of the rules, orders, or constitutions then in force, in manner and with the approbation therein mentioned: and whereas by an act passed in the twenty-ninth year of the reign of King Charles the Second, intituled, 'An Act for the better Observation of the Lord's Day, commonly called Sunday,' it was enacted, that no person or persons should use, employ, or travel on the Lord's day with any boat, wherry, lighter, or barge, except it were upon extraordinary occasion, to be allowed by some justice of the peace of the county, or head officer, or some justice of the city, borough, or town-corporate where the fact should be committed, upon pain that every person so offending should forfeit and lose the sum of 5*s.* for every such offence: and whereas the purposes of the said in part recited acts would be better effected, if the watermen, wherryemen, and lightermen on the river Thames, at and between Windsor aforesaid and Yantlet Creek, in the county of Kent, were incorporated, and the several laws

7 & 8 Geo. 4,
c. LXXV.

1 Jac. 1, c. 16.

11 & 12 Wm. 3,
c. 21.

4 Anne, c. 13.

2 Geo. 2, c. 28.

4 Geo. 2, c. 24.

10 Geo. 2, c. 31.

24 Geo. 3, c. 68.

20 Car. 2, c. 7, s. 2.

7 & 8 Geo. 4,
C. LXXV.

Recited acts of
6 Hen. 8,
2 & 3 P. & M.,
1 Jac. 1,
11 & 12 Wil. 3,
4 Anne, 2 Geo. 2,
4 Geo. 2, 10 Geo. 2,
34 Geo. 2, and so
much of
29 Car. 2, c. 7,
as prevents travelling by water
on Sunday, repealed.

Repeal of recited
acts not to revive
any acts repealed
by them.

Limits of this act.

Company incorporated.

Of whom the
company is to
consist.

Power to the
company to purchase and hold
land.

First court of
master, wardens,
and assistants,
appointed.

First master and
wardens appointed.

respecting them were consolidated and amended;" be it enacted, "that, from and immediately after the first day of August next after the passing of this act, all the several in part recited acts of the sixth year of the reign of King Henry the Eighth, the second and third years of the reign of King Philip and Queen Mary, the first year of the reign of King James the First, the eleventh and twelfth years of the reign of King William the Third, the fourth year of the reign of Queen Anne, the second, fourth, and tenth years of the reign of King George the Second, and the thirty-fourth year of the reign of his said late majesty King George the Third, and also so much of the said in part recited act of the twenty-ninth year of the reign of King Charles the Second, as prevents any person or persons from using, employing, or travelling on the Lord's day with any boat, wherry, lighter, or barge, or imposes any penalty or punishment for so doing, shall be, and the same respectively are, hereby repealed."

Sect. 2. "That the repeal of the said several hereinbefore in part recited acts shall not revive any acts of Parliament, or any part or parts of any acts of Parliament, which have been altered or repealed by the said several hereinbefore in part recited acts respectively, or any of them."

Sect. 3. "That this act and the several provisions thereof shall extend and be construed to extend to all parts of the river Thames, from and opposite to and including the town of New Windsor, in the county of Berks, to and opposite to and including Yantlet Creek, in the county of Kent, and to all docks, canals, creeks, and harbours of or out of the said river, so far as the tide flows therein."

Sect. 4. "That from and after the said first day of August next after the passing of this act, the said company of watermen, wherry-men, and lightermen shall be one body corporate, by the name and style of 'The Mayor, Wardens, and Commonalty of Watermen and Lightermen of the River Thames,' and by that name shall have perpetual succession and a common seal, and shall and may sue and be sued."

Sect. 5. "That the said company shall consist of the watermen, wherry-men, and lightermen, whose names have been registered by the overseen and rulers of the said company, in pursuance of the said recited acts, or some of them, previously to the passing of this act, and who shall be called freemen of the said company, and of such other persons as shall be admitted freemen of the said company as hereinafter is mentioned."

Sect. 6. "That it shall be lawful for the said company to purchase or hold lands, tenements, or hereditaments, to them, their successors, and assigns, not exceeding in the whole the yearly value of 1000*l.* at the time of the purchase or taking thereof, without incurring any of the penalties or forfeitures of the statutes of mortmain, and also to sell all or any of such lands, tenements, or hereditaments, and from time to time to purchase other lands, tenements, and hereditaments in lieu thereof."

Sect. 7. "That, for better managing the affairs of the said company, there shall be a court of master, wardens, and assistants, consisting of twenty-six members; and that Francis Theodore Hay, John Drinkald, James Betts, Abraham Sanderson, Anthony Lyon, William Chapman, John Jackson, Robert Thompson, Joseph Turnley, Thomas East, John Banyon, Robert Banyon, William Easton, William Randall, Charles Hay, Daniel Neal, Henry Stanton, Charles James White, Thomas Hill, William Bradley, Thomas Gillet, James John Thompson, John Cracklow, James Watford, John Drew, and Francis Flower, be the first members of the said court, and shall continue members of the said court during their respective lives, unless they respectively shall resign, or be removed in manner hereinafter mentioned."

Sect. 8. "That one of the members of the said court shall be and be called the master of the said company, and that the said Francis Theodore Hay shall be the first master of the said company, and shall continue in the said office until another master shall have been elected, and approved and sworn in, as hereinafter is mentioned, unless he shall sooner resign or die, or cease to be a member of the said court; and that four other members of the said court shall be and be called the wardens of the said company, one of whom shall be called the senior warden, and the remaining three shall be called the junior

wardens, and that the said *John Drinkald* shall be the first senior warden of the said company, and the said *James Betts*, *Abraham Sanderson*, and *Anthony Lyon*, shall be the first junior wardens of the said company; and the said four wardens respectively shall continue in their said respective offices until other wardens shall have been elected, and approved and sworn in, in their stead respectively, as hereinafter is mentioned, unless they respectively shall sooner resign, or die, or cease to be members of the said court."

7 & 8 Geo. 4,
C. LXXV.

Sect. 9. "That the said court of master, wardens, and assistants shall meet four times in every year (that is to say), on the first Tuesday after the 29th day of September, the 25th day of December, the 25th day of March, and the 24th day of June respectively, or on such other day within seven days thereafter as shall be appointed at any prior meeting; and every such meeting shall be called a quarterly court for the affairs and business of the said company."

A quarterly court to be held.

Sect. 10. "That it shall be lawful for the said court to hold an extraordinary meeting whenever any quarterly or extraordinary court, or the major part of the members of the said court for the time being, shall think proper."

Extraordinary courts may be held.

Sect. 11. "That at every court of master, wardens, and assistants, the master for the time being of the said company shall preside; and if he be unable from illness or any other cause to attend, the senior warden, if present, or, in his absence, one of the junior wardens, or if none of the junior wardens be present, then the senior member of the court who shall be present (the members named in this act, or in any election of two or more members, being considered to have seniority according to the order in which they are or shall be named) shall preside."

Appointment of chairman.

Sect. 12. "That no business shall be transacted at any court unless thirteen members be present; and all business transacted at a court of thirteen or more members shall be as valid in the absence of the master and wardens, or any of them, as if they were all present; and that all questions at any court shall be decided by the majority in number of the votes of the members present, and every member shall have one vote; and if on a division there shall be an equal number of votes on each side, the said master, warden, or other member presiding at such court, shall have a second or casting vote; and the proceedings of every court shall be entered in a book to be kept for that purpose, and signed by the master, warden, or member who shall preside."

Regulations as to quorum, and voting, &c., at courts.

Sect. 13. "That the quarterly court to be holden next after the first day of June in every year, shall elect one of the wardens for the time being of the said company to be the master of the said company for the ensuing year, and one other of the wardens or other members of the said court to be the senior warden of the said company for the ensuing year, and three others of the wardens or other members of the said court to be the junior wardens for the ensuing year; and the master and wardens so elected shall be presented to the then next court of mayor and aldermen of the said city of London; and if the said court of mayor and aldermen shall not approve of the warden elected master, or of the warden or member elected senior warden, or of the members elected junior wardens as aforesaid, or any of them, the said court of master, wardens, and assistants shall forthwith cause the clerk of the said company to summon an extraordinary court, and proceed to elect, in the place of the person or persons who shall not be approved of, another of the wardens to be master thereof, if the warden elected shall not be approved of, and another of the wardens or members to be senior warden, if the warden or member elected shall not be approved of, and others or another of the members to be junior wardens or warden, if the members elected junior wardens, or any of them, shall not be approved of, and shall present such persons or person elected as last aforesaid to the next court of mayor and aldermen of the said city which shall be holden after the said last election, and so on until a master, a senior warden, and three junior wardens, to be elected in manner aforesaid, shall be approved of by the said court of mayor and aldermen; and if none of the wardens shall be approved of by the said court of mayor and aldermen, as master of the said company, the said court of master, wardens, and assistants of the said company shall elect one other of the members of the said court to be the master of the

Master and wardens to be elected yearly by the court, and to be approved of by the court of mayor and aldermen.

7 & 8 Geo. 4,
c. LXXV.

said company, who shall in like manner be presented to the said court of mayor and aldermen for their approbation, and so on until the said court shall approve of a master elected as aforesaid; and, after such approval, the master and wardens so elected and approved shall, upon being duly sworn in as hereinafter is mentioned, become the master and wardens of the said company, and the former master and wardens respectively, if not re-elected, shall go out of office; and the said master and wardens elected and approved as aforesaid shall continue in office until the quarterly court to be holden next after the first day of June then next following, and from thence until some other persons shall be duly elected and approved of, and sworn in in their stead respectively, or they respectively resign, or die, or be removed from being members of the said court."

Oath to be taken
by the masters
and wardens.

Sect. 14. "That no master or warden hereby appointed, or to be elected and approved as aforesaid, shall act in the said office respectively until he shall, before the said court of mayor and aldermen, have taken the following oath; (that is to say.)

"I, _____, elected and approved master [or, warden, as the case may be] of the Company of Watermen and Lightermen of the river Thames, do swear, that I will faithfully perform the duties of the said office to the best of my power.

"So help me God."

On vacancies by
death, &c., of
master or
wardens, others to
be elected, sub-
ject to the like
approbation.

Sect. 15. "That when and so often as any master, or any one of the wardens of the said company, shall die or resign his office, or be removed from being a member of the said court, as hereinafter is mentioned, during the continuance of his respective office, the said court of master, wardens, and assistants, shall, as soon as conveniently may be after such death, resignation, or removal, elect one other of the said wardens or members of the court of the said company to be master or warden, as the case may require, in the place of the master or warden who shall have died, resigned, or been removed; and the person so elected shall be presented, and when approved of sworn in to the said office in the manner hereinbefore directed, and shall continue in such office during such time as the person in whose place he shall be appointed would, according to the directions hereinbefore contained, have continued in the said office."

Master, &c., neg-
lecting to attend
any court for one
year without per-
mission, shall be
removed.

Sect. 16. "That if any master, warden, or other member of the court of the said company, shall without reasonable excuse, which shall be satisfactory to the said court of master, wardens, and assistants, neglect for the space of one year to attend at any quarterly or extraordinary court of master, wardens, and assistants, the next court shall remove him from being a member of the said court."

Members of the
court may be re-
moved.

Sect. 17. "That it shall be lawful for any court of master, wardens, and assistants, to remove any of the members of the said court for ill-government, misbehaviour, or other reasonable cause."

For the election
of new members
of the court.

Sect. 18. "That when and so often as any of the members of the said court shall die, or resign, or be removed, the said court of master, wardens, and assistants, shall elect from amongst the freemen for the time being of the said company such three persons as to them shall seem meet for supplying such vacancy; and the persons so elected, upon having received notice thereof in writing, signed by the clerk of the said company, left at their respective last or usual places of abode seven days before the time of such presentation, shall be presented to the next court of mayor and aldermen of the said city of London; and such court shall select from the three persons so presented to them such one as they shall most approve of, who shall thereupon become a member of the said court of the said company, and shall continue in the said office during his life, unless he shall resign or be removed therefrom as aforesaid: provided always, that whenever, in consequence of there being more than one vacancy in the said office of a member of the said court at the same time, other freemen of the said company (being three times the number required to fill such vacancies) shall be presented to the said court of mayor and aldermen, and the said court may select such of the persons presented to fill the vacant offices as they shall think proper, and shall not be obliged to select one of the three elected to supply each vacancy respectively."

Sect. 19. "That no member of the said court shall act in the said office until he shall, before the said court of mayor and aldermen, have taken the following oath—that is to say:—

"I, _____, do swear, that I will faithfully execute the office of a member of the Court of the Company of Watermen and Lightermen of the river Thames, and, during the time that I shall continue in the said office, to the best of my abilities assist and counsel the master and wardens of the said company for the time being in all matters and things relating to the welfare of the said company.

"So help me God."

7 & 8 Geo. 4,
C. LXXV.

Oath to be taken
by the members
of the court.

Sect. 20. "That if any person who shall be elected master, warden, or member of the said court of the said company shall neglect or refuse to be presented to the said court of mayor and aldermen, or after he has been presented to and approved of or selected (as the case may require) by the said court, shall neglect or refuse to take upon him or execute the said office, the person so refusing or neglecting shall forfeit and pay for every such default the sum hereinafter mentioned; (that is to say), if he shall have been elected master, the sum of 20*l.* of lawful money of Great Britain; if he shall have been elected warden, the sum of 15*l.* of like lawful money; and if he shall have been elected a member of the said court, the sum of 10*l.* of like lawful money; and any sum so forfeited shall and may be recovered by the court of master, wardens, and assistants of the said company, by an action of debt, bill, plaint, or information, brought in the name of the clerk of the said company in any of his majesty's courts of record at Westminster, with full costs of suit, wherein no essoin, privilege, protection, wager of law, or more than one imparlance, shall be allowed; and every person who shall duly serve the said respective offices, or make such default upon being elected thereto respectively as aforesaid, shall be liable to be again elected to the same office respectively at any future time or times, and on such refusal or neglect as aforesaid, with reasonable excuse, satisfactory to the said court of master, wardens, and assistants of the said company, shall be from time to time subject to the same penalties, as often as he respectively shall be elected and make such default as aforesaid: provided always, that no person shall be compelled to serve the office of master or senior warden of the said company more than once, or the office of junior warden of the said company more than three times."

Persons refusing
to serve to be
subject to a pe-
nalty, and be li-
ble to be elected
again.

Proviso as to
masters and war-
dens.

Sect. 21. "That the quarterly court to be holden in every year next after the first day of June shall elect or re-elect a clerk of the said company, and any quarterly or extraordinary court of assistants may remove the said clerk, and on the death, resignation, or removal of any clerk, a clerk shall be elected at the then next or some subsequent court; and Thomas Shelton, Gentleman, shall be the first clerk, and he shall continue in office until the said quarterly court to be holden after the first day of August next after the passing of this act, or until another clerk shall be elected and sworn in his place, unless he shall sooner die, or resign, or be removed; and the said Thomas Shelton, and every person elected clerk, shall, before the court of master, wardens, and assistants, take the following oath; (that is to say)—

Clerk.

"I, _____, do swear, that I will faithfully perform the office of Clerk of the Company of Watermen and Lightermen of the river Thames, to the best of my power.

Oath to be taken
by the clerk.

"So help me God."

And every clerk shall, previously to his entering into the execution of his said office, give security to the master and wardens for the time being, with two sureties to be approved of by the court of master, wardens, and assistants, in the penalty of 500*l.*, for the due execution thereof, and for duly accounting for all monies to be received by him for the use of the said company by virtue of his said office."

Sect. 22. "That the accounts of the said company shall be regularly kept by the said clerk under two distinct heads, and in different books, the one to be entitled "the poor's accounts," and the other to be entitled "the company's accounts;" and that the said accounts shall be audited by the said court of master, wardens, and assistants, at their quarterly court which shall be holden next after the first day of June in every year, or by a committee to be

Accounts to be
kept by the clerk.

7 & 8 Geo. 4,
C. LXXV.

Clerk to summon
and attend courts
and be entitled to
fees.

Penalty on clerk
for neglecting to
register.

Court to appoint
inspectors of ply-
ing-places, &c.
beadles, and other
officers.

Court for bind-
ing apprentices
and admission of
freemen.

Freeman's oath.

by them appointed for that purpose, consisting of not less than five members of the said court, or oftener if occasion shall require."

Sect. 23. "That the said clerk shall summon or cause to be summoned every member of the court of master, wardens, and assistants, to attend every meeting of the said court, by causing a written or printed notice to be left at the usual places of abode of such members respectively, and shall attend every meeting of the said court, unless prevented by illness or other reasonable cause, and shall receive, on the execution of indentures of apprenticeship, and assignments thereof, and on the admission of freemen, such fees respectively, and also such salary, as the said court of master, wardens, and assistants, shall from time to time appoint."

Sect. 24. "That if the clerk of the said company shall refuse or neglect to register the name and place of abode or work of any freeman, or widow of a freeman, or the number of any wherry, boat, or other vessel, or the name and place of abode of any person who may keep any lighter, barge, or other boat or craft, and the name and number thereof, or other matter or thing required by this act to be registered by him, on being applied to and required so to do, he shall for every such offence forfeit and pay any sum not exceeding 5*l*."

Sect. 25. "That it shall be lawful for the said court of master, wardens, and assistants, from time to time, and as often as they shall think proper, to name place, and appoint plying-places, and inspectors of plying-places and cause-ways, adjoining or near unto the said river Thames, and of passage and other boats, and wherries used for the carrying and conveying of persons on the said river for hire or gain, and also beadles and such other inferior officers and servants as shall be convenient, and allow them, or any of them, such fees to be paid on the execution of indentures of apprenticeship, and the admission of freemen of the said company, and such salaries or wages, as they shall think proper; and may remove the said inspectors, beadles, officers, and servants, or any of them, from time to time, as they shall think fit; provided always, that the plying-places at Gravesend and Milton next Gravesend shall be named and appointed by the said court of master, wardens, and assistants, with the consent of the mayor, jurats, and common council of Gravesend."

Sect. 26. "That at the court to be holden next after the first day of June in every year, five of the members of the said court, not being the master or wardens, (preference being given to such of them, if any, as shall have served the office of master), shall be appointed, who, together with the master and wardens for the time being of the said company, and such other of the assistants as shall think proper from time to time to attend, shall be a court for the admission of freemen of the said company, and the execution of indentures of apprenticeship, and assignment of apprentices; and such court shall meet from time to time during the year for which they shall be appointed, when they shall think proper, but no business shall be transacted at any such meeting unless five persons be present, and it shall not be necessary for the master or any of the wardens to form part of such five persons; and the same person shall preside, and all questions shall be determined at the said court, in the same manner as is hereinbefore provided with respect to the meetings of the court of master, wardens, and assistants of the said company; and that no indenture of apprenticeship, or the assignment of any apprentice from one master to another, or the admission of any person to be a freeman of the said company, shall be executed or made, except at a meeting of the said court; and the said court shall admit to be freemen of the said company such persons as shall have duly served their apprenticeships either before or after the passing of this act, or partly before and partly after the passing of this act, to watermen or lightermen, or widows, now or hereafter authorized to take such apprentices, and no other persons; and such persons, when admitted by the said court, and sworn as hereinafter is mentioned, shall become freemen of the said company."

Sect. 27. "That no person admitted by the said last-mentioned court shall be entitled to exercise any of the rights or privileges of a freeman of the said company, until he shall before the same court have taken the following oath (that is to say);

"I swear, that I will be true to our sovereign lord the king, his heirs and successors

and will be obedient to the court of master, wardens, and assistants of the Company of Watermen and Lightermen of the river Thames, and observe and keep all the rules, orders, and constitutions, made and to be made by the said court, or pay such penalties as I shall be adjudged to pay by virtue thereof.
So help me God."

T & S Geo. 4,
C. LXXV.

Sect. 28. "That no person shall be admitted a freeman of the said company unless he shall have rowed and worked on the said river as the apprentice of some freeman of the said company, or of the widow of some freeman, for the full space of seven years (except as hereinafter is mentioned); and it shall be lawful for the widow of any freeman to bind, take, and employ apprentices, in the same manner as her husband might have done if living."

Period of apprenticeship.

Widows may take apprentices.

Sect. 29. "That no freeman of the said company, or the widow of any freeman, shall at the same time have more than two apprentices, or take a second apprentice until the first shall have served four years at least of his apprenticeship, unless such freeman or widow shall be the owner of twelve barges, lighters, or flat-bottomed craft; and every freeman or widow, being the owner of such barges, lighters, or flat-bottomed craft, may have three apprentices at one time, and being the owner of twenty barges, lighters, or flat-bottomed craft, may have four apprentices, and no more; and if any freeman or widow shall take or employ a greater number of apprentices than hereinbefore are mentioned, he or she shall, for every additional apprentice, forfeit and pay any sum not exceeding 10*l.*; and the said court, for the binding of apprentices, may require proof, on oath, that the freeman or widow is *bona fide* the real owner of the number of lighters, barges, or flat-bottomed craft, in respect of which any additional apprentice is proposed to be taken, before the binding of such apprentice respectively."

Regulation as to the number of apprentices.

Sect. 30. "That, after the first day of August next after the passing of this act, it shall not be lawful for any freeman of the said company, or widow of a freeman, to bind or take any person as an apprentice who shall be under the age of fourteen years, or above the age of eighteen years: and no indenture of apprenticeship shall be executed unless it appear by certificate, signed by the minister or churchwardens, for the time being, of the parish or place where the person to be bound was or shall be born or baptized, or by the oath (or affirmation, if of the people called Quakers) of a credible witness, that such person is of the age of fourteen years, and under the age of eighteen years."

No freeman or widow to take any apprentice under fourteen or above eighteen years of age.

Sect. 31. "That if any person or persons shall falsely forge or counterfeit, or knowingly or willingly produce any false or forged certificate, or make any false oath or affirmation, of or concerning the age of any person to be bound apprentice as aforesaid, he or they shall forfeit, for every such offence, any sum not exceeding 10*l.*, and the indentures of apprenticeship of such apprentice shall be null and void, to all intents and purposes whatsoever."

Penalty for forging or producing false certificate of baptism.

Sect. 32. "That, after the first day of August next after the passing of this act, no freeman of the said company, or widow of a freeman, shall bind or employ any apprentice or apprentices, unless he or she shall be a housekeeper, or have some known place of abode or of work; and every freeman, or widow of a freeman, shall, on the first day of September in every year, or within ten days afterwards, give notice to the clerk of the said company for the time being, of his or her place of abode or work, in order that the same may be registered; and such freeman or widow shall lodge such apprentice or apprentices in the house in which he or she shall reside; and upon any application made to the clerk of the said company to register the place of abode or work of every freeman or widow as aforesaid, the same shall be registered in a book or books of the said company, to be kept for that purpose, without fee or reward; and if any such freeman or widow, who shall bind or employ any apprentice or apprentices, shall neglect or refuse to give such notice of his or her place of abode or work as aforesaid, or shall not lodge his or her apprentice in the same house, he or she shall, for every such offence, forfeit and pay any sum not exceeding 10*l.*; and the apprentice or apprentices of such person shall and may, upon application made to the court of master, wardens, and assistants of the said company, at any of their meetings, be by them turned over to any other master or mistress, any indenture, covenant, contract, or agreement, to the contrary notwithstanding."

None but freemen or widows whose names and places of abode or working are registered in the books of the company to take apprentices.

7 & 8 Geo. 4,
c. lxxv.

Proviso as to the
lodging of ap-
prentices.

Apprentices
bound contrary
to this act.

Apprentices to
be compelled to
serve, although of
age.

No apprentice to
have the sole
care of any boat
unless he shall
have served two
years.

None but free-
men of the com-
pany (except as
after mentioned),
to row or work
any boats or craft
for hire.

No boat to be
used for carrying
passengers with-
out a license, ex-
pressing the num-
ber of persons it
may be allowed to
carry.

Number and
name of owner
to be painted
thereon.

Penalty for tak-
ing more than
the number al-
lowed.

Sect. 33. "That nothing herein contained shall extend to prevent any free-
man, or the widow of any freeman, being the owner or master of any Gravesend
boat, decked sailing-barge, or other decked craft or vessel, from lodging his or
her apprentice or apprentices on board of such boat, barge, or vessel, or to
prevent any freeman, or the widow of any freeman, being the owner, and pos-
sessed of twelve barges, lighters, or flat-bottomed craft, or upwards, from lodg-
ing his or her apprentice or apprentices in the same house or vessel, with his
or her foreman."

Sect. 34. "That no apprentice, who shall hereafter be bound contrary to the
true intent and meaning of this act, shall obtain or be admitted to the freedom
of the said company by reason of such apprenticeship."

Sect. 35. "That every person duly bound apprentice to any freeman of the
said company, or the widow of any freeman, shall serve and be compellable to
serve the whole of his apprenticeship, notwithstanding he may previously have
attained the age of twenty-one years; any law or statute to the contrary not-
withstanding."

Sect. 36. "That, after the first day of August next after the passing of this
act, it shall not be lawful for any apprentice or apprentices to have or take the
sole care of any boat or other vessel, unless such apprentice, or one of such ap-
prentices, shall have worked and rowed upon the said river as an apprentice
for the space of two years at the least; and the master or mistress of every such
apprentice, not having rowed and worked as aforesaid, who shall have or take
such care of any such boat or other vessel, shall forfeit and pay for every such
offence any sum not exceeding 5*l*."

Sect. 37. "Provided that, if any person, not being a freeman of the said com-
pany, or an apprentice to a freeman or to the widow of a freeman of the said
company (except as hereinafter is mentioned), shall at any time act as a water-
man or lighterman, or ply, or work, or navigate, or cause to be worked or nav-
igated, any wherry, lighter, or other craft, upon the said river, from or to any
place or places, or ship or vessel, within the limits of this act, for hire or row
(except as hereinafter is mentioned), every such person shall forfeit and pay
for every such offence any sum not exceeding 10*l*."

Sect. 38. "That the said court of master, wardens, and assistants, shall grant
a license to any freeman of the said company, or the widow of any freeman,
to use and work for hire any wherry, boat, or other vessel, for carrying persons or
passengers on the said river Thames, within the limits of this act, on a cer-
tificate being produced to them, verified by the oath of the builder or builders,
owner or owners, of such wherry, boat, or other vessel, of the burthen, size, and
dimensions thereof, according to the by-laws or regulations to be made from
time to time for that purpose; in which license shall be expressed the number
of persons or passengers such wherry, boat, or other vessel respectively shall
be permitted to take and carry; and for every such license one shilling and six-
pence more shall be paid; and such license shall contain a number for such wherry,
boat, or other vessel, which shall be registered in a book or books to be kept for
that purpose by the clerk of the said company; and the owner or owners of
such wherry, boat, or other vessel shall cause such number, together with his
her, or their own name or names, to be painted and kept legible in such
wherry, boat, or other vessel, in such manner as in any by-laws or regulations
to be made by the said court of master, wardens, and assistants, or by the
court of mayor and aldermen of the city of London, shall from time to time be
directed; and no wherry, boat, or other vessel, belonging to any freeman of the
said company, or the widow of any freeman, shall, at any time hereafter, be
allowed to ply for hire at any public stairs or plying-places for the carrying of
persons or passengers for hire within the limits of this act, without such license
as aforesaid; and if any wherry, boat, or other vessel, shall be used or worked
without such license for the same having been first obtained as aforesaid,
without such name or names and number painted or legible thereon as aforesaid,
the owner or owners thereof shall forfeit and pay, for every such offence,
any sum not exceeding 20*s*.; and if a greater number of persons or passengers
than shall be expressed in the license shall be taken or carried in any such
wherry, boat, or other vessel, the occupier or occupiers thereof shall forfeit and

pay for the first offence, for every person or passenger exceeding such number, any sum not exceeding 40s.; and every person or persons who shall offend in the premises a second time, and be thereof convicted, shall be disfranchised, and shall not be allowed to work, row, or navigate any wherry, boat, or other vessel, or to enjoy any of the privileges of a freeman of the said company, for the space of twelve calendar months; and in case any greater number of persons or passengers shall be taken and carried in any such wherry, boat, or other vessel, than are respectively allowed to be carried therein as aforesaid, and any one or more of them shall by reason thereof be drowned, every person or persons who shall work or navigate such wherry, boat, or other vessel, offending herein, and being thereof lawfully convicted, shall be deemed guilty of misdemeanor, and shall be liable to such punishment as in cases of misdemeanor, at the discretion of the court before whom such offender shall be tried and convicted; and every such person so convicted shall also be disfranchised, and not allowed at any time thereafter to work, row, or navigate any wherry, boat, or other vessel, or to enjoy any of the privileges of a freeman of the said company; provided always, that no license shall be granted by the said master, wardens, and assistants, to any freeman of the said company, or the widow of any freeman, residing at Gravesend or at Milton, next Gravesend, to use and work for hire any wherry or boat for carrying more than ten persons or passengers, unless he or she shall produce a license from the mayor, jurats, and common council of Gravesend, together with a certificate of his or her being a fit and proper person for that purpose."



Sec. 39. "That the said court of master, wardens, and assistants, upon the request in writing, addressed to the clerk of the said company, and left at the hall of the company, or the office of such clerk, of every person or persons who now keep or shall hereafter keep on the said river, within the limits of this act, any lighter, barge, or other boat or craft used or to be used for the carrying of goods, wares, or merchandize, without passengers, from or to any place or places, ships or other vessels (except as hereinafter is mentioned), shall cause the name or names and place or places of abode of such person or persons, and also the name or names by which any such lighter, barge, boat, or other craft for carrying goods, wares, or merchandizes, shall be called or designed to be called, to be duly registered in a book or books to be kept by the clerk of the said company for that purpose, to whom every such person or persons shall pay, for the use of the said company, 1s. for each lighter, barge, or other boat or craft, for every such registry, and shall also cause a number for such lighter, barge, or other boat or craft respectively, to be forthwith delivered by the said clerk to such owner or owners, who shall cause the same, together with the name or names of the said lighters, barges, and other boats and craft, to be painted white on a black ground, in capital letters and figures, the figures to be not less than six inches long, and broad in proportion, and the letters not less than four inches long, and broad in proportion, such figures and letters to be painted on the hudds boards of barges, and on the bows of lighters and other craft, and to be preserved and kept legible, so as to be plainly seen in the day-time by persons passing on the said river; and no person or persons shall have two lighters, barges, or other boats or craft of the same name; and if any such lighter, barge, or other craft shall be worked or navigated without being registered, or without the number and names being painted and legible as aforesaid, the owner or owners thereof shall for every such offence forfeit and pay any sum of money not exceeding 40s."

The names of persons keeping boats, &c. for carrying goods, without passengers (except as after mentioned), and also the names of such boats, to be registered in the books of the company.

The names and numbers of such boats to be painted thereon.

Sec. 40. "That every person not residing within the limits of this act, who now keeps or shall hereafter keep any lighter, barge, or other boat, craft, or vessel, used or to be used for the carrying of goods, wares, or merchandize, which may be navigated on the said river within the limits of this act, shall cause his or her name and place of abode, and also the name or names by which any such lighter, barge, or other boat, craft, or vessel shall be called or designed to be called, to be painted white on a black ground, in capital letters and figures, the figures not to be less than six inches long, and broad in proportion, and the letters not less than four inches long, and broad in proportion, such figures and letters to be painted on the hudds boards or stems of such lighters, barges,

Names of owners residing out of the limits of the act to be painted on their lighters, &c. navigated within the limits.

boats, craft, and vessels, and to be preserved and kept legible so as to be plainly seen in the day-time by persons passing on the said river; and no person shall have two lighters, barges, boats, craft, or vessels of the same name; and if any such lighter, barge, boat, craft, or vessel shall be worked or navigated within the limits of this act without the name and place of abode being painted and legible as aforesaid, the owner or owners thereof shall for every such offence forfeit and pay any sum of money not exceeding 5*l*."

Boats let for hire
to be registered
and numbered.

Sect. 41. "That the said court of master, wardens, and assistants shall, upon the request in writing addressed to the clerk of the said company, and left at the hall of the company or the office of such clerk, of every person or persons who now keep or shall hereafter keep on the said river, within the limits of this act, any wherry or other boat to be let out for hire or gain, cause the name or names and place or places of abode of such person or persons to be duly registered in a book or books to be kept by the clerk of the said company for that purpose, to whom every such person shall pay, for the use of the said company, 2*s*. 6*d*. for each wherry or boat for every such registry, and also cause a number for each wherry or boat to be forthwith delivered by the said clerk to such person or persons; and such number shall be painted in capital figures, to be not less than two inches long, and broad in proportion, in such wherry or other boat, and be preserved and kept legible, so as to be plainly seen in the day-time by persons passing on the said river; and if any such person or persons shall neglect to cause such wherry or boat to be registered, or such number to be painted or preserved legible, they, he, or she shall for every such offence forfeit and pay any sum of money not exceeding 40*s*."

Court may ap-
point Sunday
ferries between
Chelsea and Bow
Creek;

Sect. 42. "That the said court of master, wardens, and assistants shall appoint any number of watermen in their discretion to ply and work on the said river Thames on every Sunday at and between Chelsea and Bow Creek (but so as not to interfere with or prejudice any established private ferry), at such common stairs or places of plying on either side of the said river as to the said court shall seem convenient; and the fare to be taken shall be two-pence for each person carried across the river; and every waterman appointed as aforesaid shall, on the Monday morning, or such other day as the said court of master, wardens, and assistants, shall appoint for that purpose respectively, pay unto the clerk of the said company, or such other person as the said court shall from time to time direct, all such sums of money as by them respectively shall be received for conveying passengers on Sunday as aforesaid; and the said court shall pay or cause to be paid to each waterman by them appointed as aforesaid, such a sum or sums for his day's labour as they shall have agreed to pay for the same; and the surplus shall from time to time be applied to the use of the poor, aged, decayed, and maimed watermen and lightermen of the said company, and their widows, at the discretion of the said court of master, wardens, and assistants; and if any person appointed to work as aforesaid, shall neglect to pay over on the Monday, or such other day as aforesaid, the full sum of money received by him on the Sunday then last past, he shall for every omission or short payment forfeit and pay any sum of money not exceeding 40*s*."

and may let the
same to farm.

Sect. 43. "That it shall be lawful for the said court of master, wardens, and assistants, to let to farm to any freeman or freemen the said plying and working on Sundays, at any common stairs or places of plying, for carrying and receiving of passengers across the said river, for such time as they shall think proper, provided they give or cause to be given fourteen days' previous notice thereof, by ordering a printed paper, expressing their intention to let the same, to be affixed in some conspicuous place at or near such respective common stairs or places of plying, and let the same according to the highest bidder or bidders who shall give security to their satisfaction for payment of the rent or sum or sums of money bid by him or them for such plying and working; and that if any freeman whom the said court shall appoint to ply and work as aforesaid, or any person or persons who shall take such plying or working to farm, or any person or persons employed by or under him, shall demand or take from any person or persons whom he or they shall ply to or carry across the said river, any greater sum of money than 2*d*. for each person, he or they shall forfeit and pay for every such offence any sum not exceeding 5*l*."

Sect. 44. "Provided that, if any person or persons to be appointed to ply and work, or taking such plying and working to farm as aforesaid, shall employ, or wilfully permit or suffer any other person or persons to be employed in plying or working as aforesaid, until such last-mentioned person or persons, and the boat or boats to be used by him or them, shall have been approved of for that purpose by the said court of master, wardens, and assistants, he or they shall for every such offence forfeit and pay a sum not exceeding 5*l*."

Sect. 45. "Provided that nothing herein contained shall extend to authorize or empower the said court of master, wardens, and assistants, or any other person or persons whomsoever, to appoint any Sunday ferries, or grant any licenses to any watermen or others to ply on the river Thames on a Sunday, from or at the stairs on either side of the bridge at Vauxhall, or at any stairs or other place within two hundred yards of any part of the said bridge, so as to interfere with, prejudice, or affect the tolls authorized to be taken for crossing the same."

Sect. 46. "That no freeman of the said company, nor any apprentice to a freeman or to the widow of a freeman of the said company, except such as shall be appointed as aforesaid, shall ply for, or take or carry on a Sunday, at or from any common stairs or place of plying on either side of the said river at and below London Bridge, at which the said court shall appoint watermen to ply and work as aforesaid, any fare or passenger across the said river, or to either of the two common stairs or places of plying on the opposite side of the said river next above or next below the stairs or place at which such freeman or apprentice shall ply, nor to any place or places to which the fares and passengers taken at such several and respective common stairs and places of plying are usually conveyed by the waterman appointed or to be appointed by the said court to ply and work at, nor to any ship, vessel, or craft lying or being on the said river within the distance of such two other stairs or places of plying, on pain of forfeiting and paying for every such offence any sum of money not exceeding 40*s*."

Sect. 47. "That it shall be lawful for the justices of the peace acting in and for the corporation, villages, and parishes of Gravesend and Milton, or either of them, to grant licenses, at their or his discretion, to any number of the freemen of the said company residing at Gravesend, or any of the apprentices of such freemen, or the widows of such freemen, residing at Gravesend, to carry goods and passengers for hire at and from Gravesend on Sundays; and such license shall continue in force for the time that shall be therein expressed: provided nevertheless, that the said justices, or either of them, shall have power and authority from time to time to recall such licenses before the expiration of the time therein respectively to be expressed for the continuance of the same."

Sect. 48. "That the fares or sums of money to be taken on Sundays by freemen and apprentices licensed to work at Gravesend as aforesaid shall be paid by them to such persons as the said court of master, wardens, and assistants of the said company shall from time to time appoint for that purpose; and out of the said monies such sum as the said court shall from time to time think proper and fix, shall be paid to every such freeman and apprentice for his day's labour, and the surplus thereof shall be distributed twice in every year to or for the benefit of the freemen of the said company residing at Gravesend, and the widows of freemen residing at the same place, under such regulations and in such manner as the said court of master, wardens, and assistants, in and by any rules and by-laws, to be made by them, and altered or allowed as hereinafter is mentioned, shall direct."

Sect. 49. "Provided that if any person or persons shall request the said justices acting in and for the corporation, villages, and parishes of Gravesend and Milton, or either of them, to grant permission to any freeman of the said company, or any apprentice not licensed as aforesaid, to work for him, her, or them on a Sunday, it shall be lawful for the said justices, or either of them, by writing under his hand, to grant such permission to such freeman or apprentice to work for the person or persons making such request, and such freeman or apprentice shall may retain the fares or sums of money to be received by him in respect thereof, for his own benefit or the benefit of his master or mistress."

Sect. 50. "That if any freeman of the said company, or any apprentice (without having such license or permission, as aforesaid, from the said last-men-

7 & 8 Geo. 4,
C. LXXV.

Persons farming the same to employ no person who has not been approved of by the court.

Sunday ferries not to be appointed within 200 yards of Vauxhall Bridge.

Watermen not to ply or work on Sunday, below London Bridge, at the plying places next above and below any Sunday ferry.

Justices at Gravesend to license watermen to work on Sundays.

Application of fares received at Gravesend on Sundays.

Permission may be granted to other watermen to work on Sundays for persons requesting.

Penalty on other watermen working at Gravesend on Sunday.

7 & 8 Geo. 4,
C. LXXV.

Court to set up
bells at Billings-
gate and Graves-
end, to give no-
tice of the tide,
and to appoint
officers to ring
the same.

Officers to ring
such bells at
London and
Gravesend at the
times appointed.

Penalty if boats
do not go on the
ringing of the
bell.

Watermen losing
their tide to be
subject to a pe-
nalty, and not
entitled to their
fare.

The court em-
powered to regu-
late the affairs of
the company.

Court may make
by-laws.

tioned justices, or either of them) shall ply or work at Gravesend on any Sunday, he shall for every such offence forfeit and pay any sum not exceeding 5*l*."

Sect. 51. "That the said court of master, wardens, and assistants shall maintain or erect and set up, or cause to be maintained or erected and set up, proper bells, the one at Billingsgate, in the city of London, and the other on such part of the town quay of Gravesend, as the mayor, jurats, and common council of Gravesend may appoint, and which they are hereby required to do, for the purposes hereinafter mentioned; and shall cause the said bells at all times hereafter to be kept in good and sufficient repair and order; and shall appoint proper officers to ring the said bell at Billingsgate at every time of high water at London Bridge, and to ring the said bell at Gravesend at every time of the first of flood there; and if the said court shall neglect to provide and maintain such bells, or to appoint such officers, they shall forfeit and pay for every such offence the sum of 50*l*., the whole whereof shall go to the person or persons who shall inform or sue for the same, and may be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, with full costs of suit, wherein no essoin, privilege, protection, wager of law, or other than one imparlance, shall be allowed."

Sect. 52. "That the officers appointed as aforesaid for such places respectively shall give their constant attendance, as well by night as by day, at Billingsgate and Gravesend respectively, at every time of high water at London Bridge, and at Gravesend at every time of the first of flood there; and such officer or officers shall, as nearly as possible, at every such time respectively, at each of the said places respectively, ring the bell to be provided for that purpose as aforesaid, and shall continue ringing the same for fifteen minutes, to give notice to the respective owners, masters, or managers of boats and wherries, who design to pass between London and Gravesend by that tide, to be put off and set forward, and every officer who shall neglect to ring the said bells respectively at the time aforesaid, shall for every such offence forfeit and pay any sum not exceeding 40*s*."

Sect. 53. "That if, after the ringing of such bell as aforesaid at Billingsgate or Gravesend, any such boat designing to go by that tide from one to the other of the said places shall not immediately depart, and effectually proceed, with or without cargo, lying by in the river, or putting again on shore within two miles of the said respective places of Billingsgate or Gravesend, as the case may be, for the taking in any goods, passenger, or passengers, or if any such boat shall not be provided with two sufficient men besides apprentices during the whole of the said voyage, then and in every such case the owner, master, or manager of any such boat shall for every such offence forfeit and pay any sum not exceeding 5*l*."

Sect. 54. "That if any waterman navigating, working, or rowing in or belonging to any vessel or boat, navigated, worked, or rowed between London and Gravesend, shall wilfully or negligently lose the tide, by putting on shore for the taking in of any other passenger or passengers, or goods, or by loitering on the voyage or by the way, or if the passengers, or any of them, of any such vessel or boat, shall be put out or landed short of the place to which such vessel or boat shall have been bound (sailing vessels detained by want of wind excepted), then and in every such case such passengers or passenger are hereby discharged from paying their or his respective passage-money, and the waterman so offending shall forfeit and pay for every such offence any sum of money not exceeding 40*s*., and shall also be liable to be sued or prosecuted at law by any party injured, in such manner as if no penalty had been inflicted by this act."

Sect. 55. "That the said court of master, wardens, and assistants shall be full power to superintend, regulate, and control all the affairs and concerns of the said company, and to order and dispose of the custody of their common seal, and the use and application thereof."

Sect. 56. "That it shall be lawful for the said court of master, wardens, and assistants, and they are hereby empowered, from time to time to make and put down in writing such rules or by-laws as they shall think proper for the better government of the said company, and for determining the fees which shall be taken on the binding of apprentices, and the assignment of them, and the mission of members, and on other occasions, for the better maintenance of

company, and the quarterage or other sums to be paid by the freemen, and for regulating the freemen of the said company, and their widows and apprentices, and the boats or other craft to be worked or rowed by them within the limits of this act, and to annex reasonable penalties and forfeitures for the breach of such rules or by-laws respectively, not exceeding the sum of 5*l*. for any one offence, provided the same rules or by-laws be not inconsistent with any of the laws of this kingdom, or the provisions and directions in this act contained, or any of them, or any rules or by-laws to be made by the said court of mayor and aldermen by virtue of this act, or any of them; and also from time to time to alter, amend, repeal, or make void such rules or by-laws, or any of them, as to the said court of master, wardens, and assistants, in their discretion shall seem meet, so as after the making, altering, amending, or repealing thereof respectively, the rules or by-laws to be made by the said court of master, wardens, and assistants, and every such alteration, amendment, and repeal, be approved or altered from time to time, by the said court of mayor and aldermen, and also after every such approval be allowed as hereinafter is mentioned."

Sect. 57. "That it shall be lawful for the said court of mayor and aldermen, and they are hereby empowered, from time to time to make and set down in writing such rules and by-laws as they shall think proper, for the government and regulation of the freemen of the said company, and their widows and apprentices, and the boats, vessels, and other craft to be rowed or worked within the limits of this act, and to annex reasonable penalties and forfeitures for the breach of such rules and by-laws respectively, not exceeding the sum of 5*l*. for any one offence, provided the same rules or by-laws be not inconsistent with any of the laws of this kingdom, or the provisions and directions in this act contained, or any of them; and also from time to time to alter, amend, repeal, or make void such rules and by-laws, or any of them, or any rules or by-laws which shall have been made at any time or times by the said court of master, wardens, and assistants, and approved and allowed as hereinbefore and hereinafter is mentioned, so as, after the making, altering, amending, or repealing thereof respectively, the said rules and by-laws to be made by the said court of mayor and aldermen, and every such alteration, amendment, and repeal of any such rules or by-laws, or any rules or by-laws to be made, altered, or amended by the said court of master, wardens, and assistants, and approved, altered, or repealed by the said court of mayor and aldermen, be allowed as hereinafter is mentioned."

Sect. 58. "That no rules or by-laws made by the said court of master, wardens, and assistants, and approved or altered by the said court of mayor and aldermen, nor any rules or by-laws made by the said court of mayor and aldermen, by virtue of this act, nor any alteration, amendment, or repeal thereof, shall be valid, unless the same respectively shall have been allowed by his majesty's justices of his Courts of King's Bench or Common Pleas, or the barons of his majesty's Court of Exchequer, or any one or more of the said justices or barons; and they or any one or more of them are and is hereby required, on any request to be made for that purpose from time to time to them or any one or more of them, by or on behalf of the said court of mayor and aldermen, to peruse and examine, without any fee or reward, such rules and by-laws as shall be made, altered, amended, or repealed by the said court of master, wardens, and assistants, and approved of by the said court of mayor and aldermen, and such rules and by-laws as shall be made, altered, amended, or repealed by the said court of mayor and aldermen, in pursuance of this act, and to allow of or refuse to allow the same, as they or any one or more of them shall from time to time think fit."

Sect. 59. "That when and as often as any rules or by-laws shall be made or altered by the said court of mayor and aldermen as aforesaid, a copy of such intended rules and by-laws, or alterations, shall be sent to and left with the clerk for the time being of the said company, for the perusal of the said court of master, wardens, and assistants, at least thirty days before the same shall be allowed by the justices and barons aforesaid, or any one or more of them as aforesaid, in order that the said court of master, wardens, and assistants may submit to the consideration of the said court of mayor and aldermen their ob-

7 & 8 Geo. 4,
C. LXXV.

Court of aldermen empowered to make by-laws, and alter by-laws made by the court of the company.

By-laws to be allowed by one or more of the Judges.

Court of aldermen to send copy of intended by-laws and alterations to Watermen's Company 30 days before allowed by the Judges, that the company may submit their objections, &c.

7 & 8 Geo. 4.
C. LXXV.

By-laws of the
court of the com-
pany, and also of
the court of al-
dermen, to be
made public.

Court of alder-
men to fix fares
for watermen.

List of fares to
be allowed by
Privy Council.

Penalty on de-
manding more
than the fare.

List of fares to
be advertised and
made public.

List of fares to
be put up at cer-
tain plying-places
between Chelsea
Bridge and
Greenwich, and
also half-mile
posts or piles
westward of
Chelsea Bridge
and eastward of
Greenwich.

jections (if any) to such intended rules and by-laws, or alterations; and in case the said court of master, wardens, and assistants shall not be satisfied with the determination of the said court of mayor and aldermen, in consequence of any such objections respectively, then the said court of master, wardens, and assistants may submit such objections to the consideration of the said justices or barons, or any one or more of them, who shall have been requested as aforesaid to peruse and examine the same, before such intended rules, by-laws, or alterations shall be allowed as aforesaid."

Sect. 60. "That all rules and by-laws to be from time to time made, altered, or amended, by the said court of master, wardens, and assistants, in pursuance of this act, and also all rules and by-laws to be from time to time made, altered, or amended by the said court of mayor and aldermen, in pursuance of this act, within thirty days after the same respectively shall have been allowed and approved of by the said justices and barons, or any one or more of them, as hereinbefore is mentioned, shall be printed and sent to the several public offices established by authority of Parliament for the administration of justice in the counties of Middlesex and Surrey, to the town-clerk of Gravesend and Milton, and also to the several clerks of the peace of the said counties and places adjoining to the river Thames, to be published in such manner as the court of quarter-sessions in those counties shall direct, and also be made public in such other manner as the said court of mayor and aldermen shall think proper, and from time to time order and direct."

Sect. 61. "That it shall be lawful for the said court of mayor and aldermen, and they are hereby empowered, from time to time, at their discretion, to limit and fix the price or fare that every freeman of the said company, or apprentice of a freeman, or of a widow of a freeman of the said company, shall take or be entitled to for his labour in conveying any person or persons, in a wherry or other boat, from place to place on the said river, within the limits of the act, and also from time to time to alter such prices or fares, or any of them; and shall lay, or cause a list of such prices or fares to be laid before his majesty's Privy Council, to be seen and examined by some of the said Privy Council, who shall allow or refuse to allow of the same, as they shall think proper, and such allowance shall be signified under the hands of three of the said Privy Council at the least; and no fares or prices, or any alteration thereon, shall be valid, until the same shall have been allowed as aforesaid."

Sect. 62. "That every freeman of the said company, and every apprentice of a freeman, or of the widow of a freeman, who shall demand and take for his or their labour or fare, within the limits of this act, more than the said prices or sums to be limited and fixed by the said court of mayor and aldermen, and allowed as aforesaid, shall forfeit and pay for every such offence any sum not exceeding 40s."

Sect. 63. "That the said court of mayor and aldermen shall cause a list of the fares or prices to be from time to time limited or fixed as aforesaid, within thirty days next after the same, or any alteration therein, shall have been allowed by three or more of the Privy Council as aforesaid, to be advertised in the London Gazette and two London newspapers, and also to be printed and sent to the several public offices established by authority of Parliament for the administration of justice in the counties of Middlesex and Surrey."

Sect. 64. "That the said court of master, wardens, and assistants shall cause a list of such of the fares and prices, to be from time to time limited or fixed, and advertised as aforesaid, as they shall think proper, to be painted on boards in legible characters, of such height and size, and set up or affixed at or near such of the plying-places within the limits of this act, in such situations and in such manner as the said court of mayor and aldermen shall from time to time direct; and shall also cause posts or piles to be placed or driven in or near the banks or sides of the said river Thames, between Chelsea Bridge and Teddington Lock, and between Greenwich Hospital stairs and Woolwich and at such other places, within the limits of this act, as the said court of mayor and aldermen shall from time to time direct, at the distance of half a mile from each other, with letters and figures thereon, denoting the distance at

every such post or pile from Chelsea Bridge or Greenwich Hospital stairs respectively, such letters and figures to be not less than four inches long, and broad in proportion; and to be made of cast iron, raised on an iron plate, or in such other manner, and to be erected in such situations, as the said court of mayor and aldermen shall from time to time direct; and the said court of master, wardens, and assistants, shall from time to time repair and renew such boards and posts or piles, and keep and continue legible the list of fares, and letters and figures thereon respectively; and if the said court shall neglect to set up or affix such board at any plying-place at which the same shall be directed to be set up or affixed, or to place or drive any such post or pile as aforesaid, or shall not, within fourteen days after notice in writing from any person or persons, directed to the said court, shall be left with the clerk of the said company, or at Waterman's Hall, that any such board, post, or pile has been destroyed or removed, or the list, letters, or figures, or any such board, post, or pile, has been defaced or become illegible, renew or repair, or render the same legible (as the case may require), the said court for every such offence shall forfeit and pay the sum of 25*l.*, the whole whereof shall go to the person or persons who shall inform or sue for the same; and if any person or persons shall wilfully break, cut down, pull up, or damage any such board, post, or pile, or obliterate, deface, spoil, or destroy all or any, or any part of the list, letters, figures, or marks which shall be painted or affixed thereon, he or they, being thereof lawfully convicted, shall be deemed guilty of a misdemeanor, and be liable to such punishment as in cases of misdemeanors, at the discretion of the court before whom such offender shall be tried and convicted; and on the conviction of every such offender, the said court of master, wardens, and assistants shall pay a sum of 20*l.*, as a reward to the person or persons who shall inform of such offence, and also pay all the costs in or relating to the prosecution of such offender or offenders; and any penalty hereby inflicted on the said court for not setting up, affixing, or placing, or renewing any such board, post, or pile, as aforesaid, or repairing or rendering legible any list, letters, or figures thereon respectively, as aforesaid, and any reward and costs payable by the said court, may respectively be recovered by action of debt, bill, plaint, or information, against the said master, wardens, and commonalty, in any of his majesty's courts of record at Westminster, with all costs of suit, wherein no essoin, privilege, protection, wager of law, or other than one imparlance, shall be allowed."

Sect. 65. "That, for providing a fund to defray the expenses of erecting and maintaining the said boards with the fares painted thereon, and the posts and piles denoting distances, and the payment of rewards and costs on the conviction of offenders, it shall be lawful for the said court of master, wardens, and assistants to fix and appoint, from time to time, a quarterage or sum of money, not exceeding in amount the sum of 4*s.* in any year, to be paid by every freeman of the said company at Waterman's Hall, at the same time as any quarterage for the maintenance of the said company shall be payable; and if any freeman of the said company shall neglect or refuse to pay such quarterage sum of money for the space of three calendar months next after the time he be appointed for payment thereof, such freeman shall be disfranchised, and all not be allowed to work, row, or navigate any wherry, boat, or other vessel, or to enjoy any of the privileges of a freeman of the said company, till he shall have paid all arrears thereof."

Sect. 66. "That the said court of master, wardens, and assistants shall cause list of the fares limited or fixed and allowed from time to time as aforesaid, together with such (if any) of the provisions contained in this act, and of the laws for the time being made or altered by the said court, and by the said court of mayor and aldermen, or either of them, relating to the conduct of the terms when plying for hire, as the said court of mayor and aldermen shall think proper, to be printed on a card, or otherwise, as the same court shall think fit and direct, and shall cause a copy thereof to be given *gratis* to every freeman of the said company, upon payment of his quarterage, and shall furnish copies thereof to every such freeman upon payment of the sum of 1*s.* for dozen copies, and so in proportion for a less number; and every freeman or

Expenses of
boards and posts
to be defrayed
by a quarterage.

Watermen to
carry a list of
fares and by-
laws.

7 & 8 Geo. 4,
C. 1XXV.

Penalty on watermen avoiding or refusing to take a fare;

or having plied any fare, shall refuse or delay to proceed as directed.

Penalty on watermen preventing persons reading the names or numbers, or refusing to state their names, or using abusive language.

Saving the powers of the master, &c., of the Trinity House in licensing mariners.

Corporation of the Trinity House to have the same power to make by-laws for their mariners, as is vested in the Court of Aldermen with respect to watermen.

apprentice shall have a copy thereof in his boat; and if any freeman or apprentice shall not be able, or shall refuse to produce the same to any person by whom a fare shall be payable, or shall produce a false copy thereof, or shall not permit such person to examine the same, then, and in any such case, every such person or passenger is hereby discharged from paying his or her respective fare or passage-money; and the freeman or apprentice so offending shall for every such offence forfeit and pay any sum not exceeding 5*l*."

Sect. 67. "That, if any freeman of the said company, or any apprentice, who is or shall be at any stairs or plying-place within the limits of this act, shall wilfully avoid or attempt to avoid any fare, or passenger or passengers coming to or being at such stairs or plying-place for the purpose of taking a boat or wherry, or shall omit or neglect to ply, or refuse or omit to take said fare or passenger or passengers inquiring for or desirous of taking such boat or wherry, or shall say or represent that he is hired or engaged, when he is not hired or engaged, or shall not answer when called by the number or number of his or their boat or wherry; then, and in any such case, every such freeman or apprentice so offending shall forfeit and pay for every such offence any sum not exceeding 5*l*."

Sect. 68. "That if any freeman of the said company, or any apprentice, shall ply any fare, or passenger or passengers, and afterwards refuse to take said fare, or passenger or passengers, to such place or places as he, she, or they do direct, or shall unnecessarily delay any fare, or passenger or passengers, by bringing up his boat or wherry for the fare, or passenger or passengers, into the same, or shall continue at the stairs or causeway after such fare, or passenger or passengers, is or are in his boat or wherry, or shall not proceed with due diligence and exertion, and without wilful let or hindrance, to such place or places as the said fare, or passenger or passengers, shall lawfully direct, then, and in every such case, every such freeman or apprentice so offending shall for every such offence forfeit and pay any sum not exceeding 5*l*."

Sect. 69. "That if any freeman of the said company, or any apprentice, or any other person whomsoever, shall refuse to permit or suffer any persons to read, or shall in anywise hinder any person or persons from reading the name and number painted on any wherry, boat, or vessel, as aforesaid, if any such freeman or apprentice shall refuse to tell his Christian or surname, or the number of his boat, to any person or persons who shall demand the same, on being paid any fare or price, or shall, in answer to such demand, give a false name or names, or number, or shall make use of any scurrilous or abusive language to any passenger or person; then, and in every such case, every such freeman or apprentice, and other person so offending, shall forfeit and pay for every such offence any sum not exceeding 5*l*."

Sect. 70. "Provided that nothing in this act contained shall extend to abridge or alter any of the powers or authorities vested in the master, warden, and assistants of the Trinity House of Deptford Strond, in and by any act of Parliament made and passed in the eighth year of the reign of Queen Elizabeth, intituled, 'An Act concerning Sea-Marks and Mariners;' nor to any mariner or mariners, licensed or to be licensed by the said master, warden, and assistants of the Trinity House, to row or use any boat or wherry on said river Thames, or any of the men employed by the said master, warden, and assistants of the Trinity House, in rowing or using any ballast lighters or boats on the said river, be subject, by reason of any matter, clause, or thing herein contained, to the rules, orders, or government of the said court of mayor and aldermen, or of the said master, warden, and assistants of the said company, or to any penalty imposed by this act, except as hereinafter mentioned."

Sect. 71. "Provided that the said master, warden, and assistants of the Trinity House of Deptford Strond shall have such and the like power and authority to make and set down in writing, alter, amend, repeal, and void, rules and by-laws for the government and regulation of the river Thames, licensed or to be licensed by them, and the men employed by them on said river, and the boats, vessels, and other craft to be rowed and used by such mariners and men, as is hereinbefore given to the said court of

and aldermen with respect to the government and regulation of the freemen of the said company, and their widows and apprentices; and such rules or by-laws shall be approved or altered, and advertised, in the like manner as is hereinbefore required with respect to the rules or by-laws to be made by the said court of mayor and aldermen."

Sect. 72. "Provided that, when and as often as any rules or by-laws shall be made or altered by the said master, wardens, and assistants of the Trinity House as aforesaid, a copy of such intended rules and by-laws, or alterations, shall be sent to and left with the town-clerk of the city of London, or at his office, and another copy thereof with the clerk for the time being of the said company, or at Waterman's Hall, for the perusal of the said court of mayor and aldermen, and the said court of master, wardens, and assistants respectively, at least thirty days before the same shall be allowed by the justices or barons aforesaid, or any one or more of them as aforesaid, in order that the said court of mayor and aldermen, and the said court of master, wardens, and assistants, or either of them, may submit their objections (if any) to such intended rules and by-laws, or alterations, to the consideration of the said justices or barons, or any one or more of them, who shall have been requested as aforesaid to peruse and examine the same, before such intended rules, by-laws, or alterations shall be allowed, as aforesaid."

Sect. 73. "Provided that the prices of fares to be limited and fixed by the said court of mayor and aldermen, and allowed and advertised as aforesaid, shall be binding upon the mariners licensed or to be licensed by the said master, wardens, and assistants of the said Trinity House; and they shall be subject to the like penalties for demanding and taking more than such prices or fares as are hereby inflicted on the freemen of the said company for the like offence."

Sect. 74. "That in case any freeman of the said company, or any apprentice or other person or persons, shall offend against this act, or any rules or by-laws which shall be made by the said court of mayor and aldermen, or by the said court of master, wardens, and assistants, or by the master, wardens, and assistants of the said Trinity House, and respectively approved in pursuance of this act, it shall be lawful for the said lord mayor, recorder, or any one alderman of the said city of London, or for any justice of the peace for the respective counties and places next adjoining to the said river of Thames, at and between Yantlet Creek and Windsor, and every of them, within his several and respective jurisdiction, and for any justice of the peace acting in and for the corporation, villages, and parishes of Gravesend and Milton within his jurisdiction (which shall include for the purposes of this act any part of the said river between Broadness Point, in the Northfleet Hope, in the said county of Kent, and Yantlet Creek aforesaid); and he respectively is hereby required, upon complaint made of any such offence or misbehaviour committed within his said respective jurisdiction, within thirty days after the commission of any such offence or misbehaviour, to cause the offender or offenders to be summoned personally, or, by leaving such summons at his, her, or their last or usual respective place of abode, to appear and answer the said complaint; and if any freeman, apprentice, or other person, being duly summoned, as aforesaid, shall refuse or neglect to appear and answer to any complaint or complaints made against him, her, or them, for any offence or offences committed by him, her, or them against this act, or the said rules or by-laws, or any of them, it shall be lawful for the said lord mayor, recorder, alderman, or justice respectively, in his respective jurisdiction, as aforesaid, to issue his warrant for apprehending such freeman, apprentice, or other person, upon oath being made of the service of such summons, and to cause the party so offending or misbehaving to be brought before him; and the party accused being before such lord mayor, recorder, alderman, or justice respectively, either by means of such summons or of such warrant or warrants, as aforesaid, he respectively is hereby authorized and required to examine upon oath the complainant, or any witness or witnesses, touching such offence or misbehaviour; and, if the party or parties accused shall be convicted of any such offence or misbehaviour, either by his, her, or their own confession, or by the oath or affirmation,

7 & 8 Geo. 4,
C. LXXV.

Copy of intended by-laws and alterations of the Trinity House to be sent to the town clerk of London and the Watermen's Company, thirty days before allowed by the judges.

Mariners licensed by the Trinity House to be limited to the same fares as watermen.

Lord mayor, aldermen, &c., may summon and apprehend watermen and others, and punish them by fine or imprisonment.

if a Quaker, of the complainant, or of one or more credible witness or witnesses, it shall be lawful for the said lord mayor, recorder, alderman, or justice respectively, to impose a fine upon such offender or offenders for the said offence, not exceeding the penalty or penalties inflicted or to be inflicted by this act, or the said rules or by-laws to be made and approved of, as aforesaid, or any of them; and if the person or persons so convicted shall not forthwith pay the penalty or forfeiture so imposed upon him, her, or them, it shall be lawful for the said lord mayor, recorder, alderman, or justice, and he is hereby required, by warrant under his hand and seal, to cause the same to be levied, together with the costs attending the information, summons, warrant, and conviction, by distress and sale of the goods and chattels of the party offending, and the overplus (if any), after such penalty or forfeiture and costs, and the charges of such distress and sale, are deducted, shall be returned upon demand unto the owner or owners of such goods and chattels; and, in case such penalty or forfeiture and costs shall not be forthwith paid upon conviction, then it shall be lawful for such lord mayor, recorder, alderman, or justice, to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such lord mayor, recorder, alderman, or justice, for his or their appearance on such day or days as shall be appointed for the return of such warrant of distress: such day or days not being more than seven days from the time of taking any such security, and which security the said lord mayor, recorder, alderman, or justice, is hereby empowered to take by way of recognizance, or otherwise: but if, upon the return of such warrant, it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for such lord mayor, recorder, alderman, or justice, and he is hereby authorized and required, by warrant or warrants under his hand and seal, to cause such offender or offenders to be committed to the common gaol or house of correction of the city, county, liberty, or place where the offender shall be or reside, there to remain without bail or mainprize for any time not exceeding two calendar months, unless such penalties and forfeitures and costs, and all reasonable charges attending the same, shall be sooner paid and satisfied."

Constables not
to take watermen,
&c. out of their
boats, till
moored.

Sect. 75. "Provided, that no constable or other officer shall, by virtue of any such warrant, apprehend or take any freeman, or apprentice, or mariner, out of any boat or craft which they respectively may happen to be on board of rowing or navigating, until such boat or craft shall be safely moored, unless there shall be sufficient hands on board to row, or navigate, or take care thereof; and notice of this provision shall be inserted in every such warrant for the information of the constable or other officer who may have the execution thereof."

Lord mayor, &c.
to summon persons
refusing to
pay their fare,
and order pay-
ment, &c.

Sect. 76. "That if any person or persons shall refuse to pay any freeman, the said company, or any apprentice, or any mariner, licensed or to be licensed by the said corporation of Trinity House, as aforesaid, the money justly due to him or them for carrying any such person or persons in his boat or boats, according to the fares or prices which shall be fixed, allowed, and published, as aforesaid, it shall be lawful for the said lord mayor, recorder, or any alderman or justice, as aforesaid, within whose jurisdiction as aforesaid such refusal shall be made, and he is hereby required, upon complaint made of any such refusal, to summon such person or persons to answer the said complaint, by causing such summons to be served personally, or by leaving the same at his, her, or their last or usual respective place of abode; and if any person or persons being duly summoned, as aforesaid, shall refuse or neglect to appear, or answer to any complaint or complaints made against him, her, or them, or refusing any such payment as last hereinbefore is mentioned, it shall be lawful for the said lord mayor, recorder, alderman, or justice respectively, in his or their respective jurisdiction as aforesaid, and he is hereby required, to issue his warrant for apprehending such person or persons, upon oath being made of such his, her, or their refusal, as aforesaid, and service of such summons, and to cause the party or parties so offending to be brought before him or them: and the party or parties accused being before such lord mayor, recorder, alderman,

7 & 8 Geo. 4,
C. LXXV.

or justice, respectively hereby authorized as aforesaid), and they are hereby required to hear and determine concerning any such offence or misbehaviour, and convict the offender, as hereinafter is mentioned and directed (that is to say); in every such case it shall be lawful for the said master, wardens, and assistants, or any two or more of them, upon complaint made by any such freeman, widow, or apprentice, as aforesaid, of any such offence or misbehaviour, within thirty days after the commission thereof, to cause the freeman, widow, or apprentice, offending as aforesaid, to be summoned personally, or by leaving such summons at his, her, or their last or usual place of abode, to appear and answer to the said complaint, and the party accused being before the said master, wardens, and assistants, or any two or more of them, to hear and examine upon oath the complaint, or any witness or witnesses, touching such offence or misbehaviour, and determine concerning the same; and if the freeman, widow, or apprentice accused shall be convicted of any such offence or misbehaviour, it shall be lawful for the said master, wardens, and assistants, or any two or more of them, and they are hereby required, to impose a fine upon such offender for the said offence or misbehaviour, not exceeding the penalty or penalties inflicted or to be inflicted by this act, or the said master by-laws to be made and approved of as aforesaid, or any of them; and if the freeman, widow, or apprentice convicted, shall not forthwith pay the penalty or forfeiture so imposed upon him, her, or them, it shall be lawful for the said lord mayor, recorder, or any alderman or justice, as aforesaid, within whose jurisdiction, as aforesaid, the said offence or misbehaviour shall have been committed, and he is hereby required, upon production to him or them respecting of such conviction drawn up in writing, to issue his warrant for apprehending such freeman, widow, or apprentice, and to cause such penalty or forfeiture to be paid or raised, or to commit the party convicted, in the same manner as respects as hereinbefore is expressed with respect to any party who shall be convicted by or before the said lord mayor, recorder, alderman, or justice respectively: and such conviction by the said master, wardens, and assistants, or any two or more of them, shall be drawn up in the following form of words or in any other form of words to the same effect (that is to say);

Form of conviction by the court of master, wardens, &c.

"Be it remembered, that on this *day of*
to wit. *year of his majesty's reign, A. B. is convicted*
[describe the master, wardens, or assistants, as the case may be], of the offence of *Watermen and Lightermen of the river Thames, for* [here set forth the offence] *and we do adjudge him to pay and forfeit for the same the sum of*
Given under our hands and seals, the day and year aforesaid."

Penalty on persons summoned not appearing.

Sect. 80. "Provided that if any party summoned by the said master, wardens, and assistants, or any two or more of them, shall refuse or neglect to appear to answer the complaint made against him or her, without assigning a reasonable cause for such refusal or neglect, to be allowed by the said master, wardens, and assistants, or any two or more of them, he or she shall, for such refusal, neglect, forfeit and pay any sum of money not exceeding 20s."

Jurisdiction of court of the company not to extend to any but freemen.

Sect. 81. "Provided that the jurisdiction or authority hereby given to the said master, wardens, and assistants, or any two or more of them, shall be construed to extend to the conviction of any offender who shall not be a freeman of the said company, or the widow of such freeman, or the apprentice of such freeman or widow."

As to apprentices imprisoned for offences against this act.

Sect. 82. "That every apprentice to any freeman, or to the widow of a freeman, who shall be imprisoned for any offence against this act, or against the rules or by-laws as aforesaid, shall serve as an apprentice to his then master or mistress, not only till the expiration of the term for which such apprentice ought to serve according to the laws and customs already existing, or act, and any agreement which may have been made in that behalf, but also, and during such further space of time, to be computed from the end of the term, as shall be equal in duration to the time during which such apprentice shall have been imprisoned as aforesaid; and that no such apprentice shall be considered as having served a legal apprenticeship, or entitled to the privileges and benefits of serving an apprenticeship, until he shall actually have served

such further space of time; any agreement concerning such apprenticeship, or any law, usage, or custom, to the contrary notwithstanding."

Sect. 83. "That in every case in which any oath is by this act directed to be made or taken, or any matter or thing is directed to be proved by oath, the said lord mayor, recorder, or any alderman, at any court of mayor and aldermen, or the said lord mayor, recorder, aldermen, and justices respectively, or the said master, or one of the wardens or assistants present at any court of master, wardens, and assistants, or any court for apprentices and the admission of freemen, or any two or more of the said master, wardens, and assistants, before whom such oath is hereby directed to be made or taken, or such matter or thing to be proved, shall have full power to administer the oath, or instead thereof to receive a solemn affirmation by any of the people called Quakers, as the case may require."

Sect. 84. "That in case of any information, complaint, dispute, suit, or litigation, in anywise relating to any offence against this act, any freeman of the said company, or the apprentice of any freeman, shall be competent to give evidence thereon."

Sect. 85. "That if any person who shall be summoned as a witness to give evidence before any lord mayor, recorder, alderman, or justice, or any master, wardens, or assistants, respecting any matter of fact relating to any information or complaint for any offence against this act, or any such rules or by-laws as aforesaid, either on the part of the prosecutor or the person or persons accused, shall, after a reasonable sum for his or her costs shall have been paid or tendered to him or her, refuse or neglect to appear at the place and time by such summons appointed, without a reasonable excuse for such neglect or refusal, such person or persons shall forfeit, for every such neglect or refusal, any sum not exceeding 40s."

Sect. 86. "That in all cases in which by this act any penalty or forfeiture imposed is made recoverable by information before any lord mayor, recorder, alderman, or justice, or master, wardens, or assistants, it shall be lawful for such lord mayor, recorder, alderman, or justice, or master, wardens, or assistants, respectively, to whom complaint shall be made of any offence against this act, to summon the party complained against before him the said lord mayor, recorder, alderman, or justice, or master, wardens, or assistants, respectively, and on such summons to hear and determine the matter of such complaint; and on proof of the offence to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited or taken by or before such lord mayor, recorder, alderman, or justice, or master, wardens, or assistants; and all such proceedings by summons, without information, shall be as good, valid, and effectual, to all intents and purposes, as if an information in writing was exhibited."

Sect. 87. "That when any distress shall be made by virtue of this act, the distress itself shall not be deemed unlawful, nor shall the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the summons or conviction, warrant of distress, or any proceeding relating thereto; nor shall the party or parties be deemed a trespasser or trespassers, *ab initio*, on account of any irregularity which shall be afterwards committed in making the distress."

Sect. 88. "That all penalties and forfeitures which shall be levied or recovered, and received in pursuance and by virtue of this act, shall be paid to the said court of master, wardens, and assistants of the said company for the time being, or to the clerk of the said company at their hall, within one week after the same shall be levied; and one half thereof shall be applied in or towards the fund directed to be provided to defray the expenses of erecting and maintaining boards, posts, and piles, and the payment of rewards and costs as aforesaid, and the surplus (if any) of the said half, after deducting so much as shall be necessary for the purposes of the said fund, and the whole of the other half thereof, shall be paid and distributed to the poor, aged, and decayed freemen of the said company and their widows, except only that it shall be lawful for the said lord mayor, recorder, aldermen, or justices, master, wardens, or assist-

7 & 8 Geo. 4,
C. LXXV.

Mayor, &c., may
administer oaths.

Freemen may be
witnesses.

For compelling
the attendance of
witnesses.

Justices may pro-
ceed by summons
in the recovery
of penalties.

Distress not un-
lawful for want
of form.

Application of
penalties.

7 & 8 Geo. 4.
C. LXXV.

Justices may
award satisfaction
for damages
done to any boat
or craft, not ex-
ceeding 5*l*.

Persons aggrieved
may appeal to
the quarter ses-
sions.

Penalties may be
mitigated.

Proceedings not
to be quashed
for want of form.

ants, respectively, before whom any offender or offenders shall be convicted, out of the said forfeitures and penalties, to reward any person or persons who shall inform of any offence or offences against this act, or the said rules or by-laws to be made and approved of as aforesaid, according to the discretion of such lord mayor, recorder, aldermen, or justices, master, wardens, or assistants, respectively, so as such reward exceed not one half-part of the respective penalties or forfeitures."

Sect. 89. "That, from and after the said first day of August next after the passing of this act, if any person or persons shall do or commit any damage, injury, or spoil, to or upon any lighter, barge, boat, wherry, or other vessel or craft within the limits of this act, and shall be thereof convicted within three months next after the committing of such injury, before the said lord mayor, recorder, or any alderman or justice within whose jurisdiction as aforesaid such offence shall have been committed, either by the confession of the party offending, or by the oath of one or more credible witness or witnesses, or of the party aggrieved in the premises, every person so offending, and being thereof convicted as aforesaid, shall forfeit and pay to the person aggrieved such a sum of money as shall appear to such lord mayor, recorder, alderman, or justice, to be a reasonable satisfaction and compensation for the damage, injury, or spoil so committed, not exceeding in any case the sum of 5*l*., which said sum of money shall be paid to the person or persons aggrieved; but in case such conviction shall take place on the sole evidence of the party aggrieved, then in such case such satisfaction and compensation shall be paid to the overseer or overseers of the poor of the parish, township, or place where the offence was committed; and in default of payment of the sum of money in which the offender or offenders shall have been so convicted as aforesaid, immediately or within such time as such lord mayor, recorder, alderman, or justice, shall appoint at the time of conviction, together with all costs, charges, and expenses attending the conviction, such lord mayor, recorder, alderman, or justice, shall and may commit such offender or offenders to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding three calendar months, unless such penalty, costs, and charges, shall be sooner paid and satisfied."

Sect. 90. "That if any person or persons shall think himself, herself, or themselves aggrieved by any conviction of the said lord mayor, recorder, or any alderman or justice, or any of the said master, wardens, and assistants, respectively, on account of any offence committed or supposed to have been committed against this act, or against any of such rules or by-laws as aforesaid, such person or persons may appeal to the justices of the peace at the next general or quarter sessions to be holden for the place where such cause of appeal shall arise, or to such sessions shall be holden within ten days after such conviction, then such person or persons may appeal either to such next general or quarter sessions, or to the sessions following such next general or quarter sessions, provided the person or persons at the time of such conviction shall enter into a recognizance with one sufficient surety, in the sum of 20*l*., to prosecute such appeal with effect, and to abide by the order or orders which shall be made on such appeal; and the said justices are hereby authorized and required to take cognizance thereof, and to hear and determine such appeal, and shall and may, if they see cause, by order of such sessions, mitigate, at their discretion, all or any part of the penalties or forfeitures laid upon or incurred by the party or parties appealing, or vacate or set aside the conviction or convictions, or otherwise may ratify or confirm the same, with such costs as to them in their discretion shall seem reasonable, and levy by their order or warrant such penalties or forfeitures and costs awarded by distress and sale of the goods and chattels of the person or persons who shall refuse to pay the same, and for want of such distress to commit such person or persons to the common goal for the said county or place where the cause of appeal shall arise, for any time not exceeding two calendar months, or until payment of such penalties or forfeitures and costs."

Sect. 91. "That no proceedings to be had touching the conviction of any offender or offenders against this act, or any matter or thing to be done or acted in or relating to the execution of this act, shall be vacated or quashed."

want of form only, or be removed or removable by certiorari, or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster, any law or statute to the contrary notwithstanding."

7 & 8 Geo. 4,
C. LXXV.

Sect. 92. "That no plaintiff or plaintiffs shall recover in any action to be commenced against any person or persons, body or bodies politic, corporate, or collegiate, for anything done in pursuance of this act, until notice in writing, signed by his, her, or their attorney, specifying the cause of action, shall have been given to the defendant or defendants, or left at his or their usual or last place or places of abode or meeting, at least fourteen days before the same shall have been commenced; nor shall the plaintiff or plaintiffs recover in any such action, if tender of sufficient amends shall have been made to him, her, or them, or to his, her, or their attorney, by or on the behalf of the defendant or defendants, before such action brought, nor if such tender of amends shall be made after the said action brought and before the trial thereof, together with the costs of suit, at the time of such last-mentioned tender; but on proof of such tender, at any trial to be had in such action, the plaintiff or plaintiffs shall suffer judgment as in the cases of nonsuit, with double costs, to be recovered in the same manner as any defendant or defendants may recover costs in any other case by law; and in case no such tender of amends shall have been made, it shall be lawful for the defendant or defendants, by leave of the court, at any time before issue joined, to pay into court such sum or sums of money as he, she, or they shall think fit, whereupon such proceedings, orders, and judgments shall be made and given in and by such court, as in other actions wherein defendants are allowed to pay money into court."

Plaintiff not to recover without notice, or after tender of amends.

Sect. 93. "That no action or suit shall be commenced or prosecuted against any person or persons, body or bodies politic, corporate, or collegiate, for anything done in pursuance of this act, after three calendar months next after the cause of such action shall have arisen; and every such action or actions shall be brought into the county, city, or place in which the cause of action shall have arisen, and not elsewhere; and the defendant or defendants in such action or suit may, at his, her, or their option, either plead specially or plead the general issue, and give this act and the special matter in evidence at any trial or trials which shall be had thereon, and that the same was done in pursuance and by the authority of this act; and if the same shall appear to have been so done, or that such action or suit was brought within fourteen days' notice thereof having been given as aforesaid, or after sufficient amends tendered as aforesaid, or if any such action or suit shall not be commenced within the time lastly before limited, or shall be brought in any other county, city, or place than where the cause of action shall have arisen, then and in any of such cases the jury or juries shall find a verdict for the defendant or defendants; and upon such verdict, or if the plaintiff or plaintiffs shall become nonsuit, or shall discontinue his or their action or actions after the defendant or defendants shall have appeared, or if upon demurrer judgment shall have been given against the plaintiff or plaintiffs therein, then and in any of the cases aforesaid the defendant or defendants shall have double costs, and shall have such remedy for recovering the same as any defendant or defendants hath or may have for his or their costs in any other cases by law."

Limitation of actions.

General issue.

Double costs.

Sect. 94. "Provided that nothing in this act contained shall extend or be construed to extend to prejudice or derogate from the rights, interests, privileges, franchises, or authorities of the mayor and commonalty and citizens of the city of London or their successors, or the lord mayor of the said city for the time being, or to prohibit, defeat, alter, or diminish any power, authority, or jurisdiction which at the time of making this act the said mayor and commonalty and citizens, or the said lord mayor for the time being, as conservator of the river Thames, did or might lawfully claim, use, or exercise."

Saving the rights of the city of London.

Sect. 95. "Provided that nothing in this act contained shall extend to the lessening, taking away, abridging, hindering, prejudicing, or otherwise howsoever impeaching of any right belonging to or lawfully claimed by the late Charles, Duke of Richmond and Lennox, lord of the manor of Gravesend, his heirs, executors, administrators, or assigns, for the holding of a certain court within

Saving the Duke of Richmond's right to hold a court at Gravesend, called *Curia Curonis Aquæ*.

7 & 8 Geo. 4.
C. LXXV.

Saving the liberties of the inhabitants of Gravesend.

Saving the right of the watermen of St. Margaret's and of St. John's, Westminster.

Saving the rights, &c., of commissioners of Westminster Bridge.

Saving existing ferries.

the said manor, called *Curia Cursus Aquæ*, or the Court of the Watercourse, for the better government of barges, boats, and vessels using the ferry or passage from the town of Gravesend to London, and of the persons owning or working the same, or of any other rights, liberties, powers, and privileges whatsoever belonging to the said late duke, his heirs, executors, administrators, and assigns, relating to the said ferry or passage, or to the barges, tilt-boats, or other boats, and vessels using the said ferry or passage, or plying at the bridge of the said town of Gravesend, or the persons owning or working the same, or otherwise howsoever."

Sect. 96. "Provided that nothing in this act contained shall extend to the lessening, taking away, abridging, hindering, prejudicing, or impeaching of any grants, liberties, franchises, customs, privileges, or usages, now or heretofore lawfully used, held, or enjoyed by the mayor, jurats, and capital inhabitants of the villages and parishes of Gravesend and Milton in the county of Kent, touching, concerning, or relating to the passage and ferry upon the said river Thames from the said villages and parishes to the said city of London, or touching or concerning the government of the said passage or ferry; but that the said mayor, jurats, and inhabitants, and their successors, shall and may do and execute all and every such lawful act and acts, powers and authorities, touching the said passage and ferry, and the government thereof, as they might or could have done if this act had not been made; anything herein contained to the contrary thereof in anywise notwithstanding."

Sect. 97. "Provided that nothing in this act contained shall extend to hinder or prevent the watermen of the parishes of St. Margaret and St. John, Westminster, from plying or working cross the river Thames from Westminster Bridge to Standgate, and from the Horse Ferry to Lambeth Bridge, on every Sunday, and taking the fare of 1d. for each passenger, in their several turns, as they have been accustomed and used to do; and the money earned by them or any of them on that day, is hereby directed to be from time to time employed for the use of the poor, aged, decayed, and maimed watermen and their widows of the parishes of St. Margaret and St. John, Westminster; and any two justices of the peace of the said parishes are hereby authorized from time to time to call the watermen so working to account for the monies by them earned on the Sunday as aforesaid, and cause the same to be applied and disposed of as aforesaid; and that the said watermen of the said parishes of St. Margaret and St. John for the time being shall choose two stewards and a clerk, on the twenty-third day of April in every year, yearly, unless such day shall happen to be on the Lord's Day, and in such case on the following day; and such watermen of the said parishes, or the major part of them which shall be present at a meeting of their society, shall and have hereby power to appoint such of the watermen of the said parishes as shall in their respective turns work on the Sunday as aforesaid; and no freeman or apprentice shall ply or work cross the said river at either of the said places on a Sunday, except the watermen of the said parishes, and the watermen to be appointed by the said master, wardens and assistants of the said company, on alternate Sundays."

Sect. 98. "Provided that nothing in this act contained shall extend or be construed to extend to take away, lessen, abridge, hinder, prejudice, impeach, interfere with, or in any manner affect any estate, right, title, interest, liberty, privilege, power, or authority, which the commissioners of Westminster Bridge have or are entitled to in or in anywise relating to the three several and respective Sunday ferries across the river Thames from Westminster Bridge to Standgate and from the Horse Ferry to Lambeth, and from Millbank to Vauxhall, or any or either of them, or any other estate, right, title, interest, liberty, privilege, power, or authority whatsoever, of, belonging, or in anywise appertaining to the said commissioners, but that all estates, rights, titles, interests, liberties, privileges, powers, and authorities whatsoever, of, belonging, or in anywise appertaining to the said commissioners, shall and may be held, used, occupied, possessed, and enjoyed by the said commissioners in such and the same manner in all respects as if this act had not been made; anything herein contained to the contrary thereof in anywise notwithstanding."

Sect. 99. "Provided that nothing in this act contained shall extend to pre-

dice or affect the rights and privileges to which the owner or owners of any ferry or ferries over or across the said river Thames, within the limits of this act, are now entitled to by law."

7 & 8 Geo. 4,
C. LXXV.

Sect. 100. "Provided that nothing in this act contained shall extend to interfere with, lessen, or abridge the rights and privileges of any company of proprietors of any docks or canals within the limits of this act, or any of their officers, with respect to the navigation in the said docks or canals respectively, or in anywise relating thereto."

Saving powers
of dock com-
panies.

Sect. 101. "That nothing in this act contained (except the provisions for compelling the names of the barge or craft, and the name and place of abode of the owner, to be painted and preserved thereon as aforesaid) shall extend to any western barges; and that all flat-bottomed boats and barges navigated from the town of Kingston in the county of Surrey, or any place or places beyond the said town, shall be deemed western barges, and shall and may be navigated on the said river of Thames as far as London Bridge; and that nothing in this act shall extend to any ferry-boats worked or rowed at any ferry or ferries over or across the said river at or between the said town of Kingston and any place or places between the same and New Windsor aforesaid; and no person or persons navigating such western barges or ferry-boats as last aforesaid shall in respect thereof be subject or liable to any penalties or forfeitures imposed by this act, or by any rules or by-laws to be made as aforesaid (except as aforesaid)."

Saving western
barges, and men
employed in
them, and in
ferries at King-
ston and above.

Sect. 102. "That nothing in this act contained shall prevent any person or persons from keeping and using and rowing by their servants, any lighter or lighters, or other large craft, for carrying their own goods, provided such servants be freemen, or apprentices to freemen or to the widows of freemen of the said company."

Any persons and
their servants, if
freemen or ap-
prentices, may
use lighters;

Sect. 103. "Provided that, if such person or persons shall carry, or cause to be carried, in his or their lighter or lighters, or other large craft, any passenger or passengers for hire, or any goods, wares, or merchandizes for hire, or otherwise than their own as aforesaid, or shall row in or navigate, or permit or suffer any person or persons to row in, navigate, or work any such vessel or vessels, who is not a freeman, or an apprentice to a freeman, or to a widow of a freeman of the said company, he and they shall for any such offence forfeit and pay any sum of money not exceeding 10*l*."

but not let them
out for hire, or
permit others to
row them, not
being freemen or
apprentices.

Sect. 104. "That nothing in this act contained shall prevent any owner or owners, proprietors, or lessees of laystalls, from carrying off the soil from the said laystalls in such lighters or vessels, and by such persons as have hitherto been accustomed; or any owner or owners, or proprietors of chalk hoys, from bringing chalk in such hoys or vessels, and by such persons as have hitherto been accustomed; or any gardener from bringing to the markets of the cities of London and Westminster, and the places adjacent, their own fruit, herbs, roots, and other produce of their gardens, or soil and dung, in their boats, and by their own servants, as they have formerly been accustomed; or any fisherman from using his own boat or boats for the purpose of his business; nor any ballastman from using any vessel for digging, getting, and carrying any ballast; and that no person employed, or working, or navigating any lighters, hoys, vessels, or other craft, for any of the purposes aforesaid, shall be subject to any of the penalties or forfeitures imposed by this act, or by any rules or by-laws made or to be made as aforesaid, except as hereinafter is mentioned."

Owners of lay-
stalls, market
gardeners, &c.,
may use boats as
heretofore;

Sect. 105. "Provided, that if any such owner or owners, proprietors, lessees, or gardeners, fishermen, ballastmen, or his or their servants, shall carry, in any such lighters, vessels, or boats, any passenger or passengers, or any kind of goods, wares, or merchandize, for hire, or other than for and on their own account, he and they shall for every such offence forfeit and pay any sum not exceeding 10*l*."

but to be subject
to a penalty if
they carry pas-
sengers or goods
for hire.

Sect. 106. "Provided, that the powers given by this act to the said court of mayor and aldermen to make rules and by-laws, to be allowed as aforesaid, shall extend, and are hereby extended, and may be applied to the government and regulation of the western barges, ferries, and lighters, boats, and vessels of woodmongers and owners of laystalls, chalk hoys, gardeners, fisher-

By-laws of the
court of aldermen
extended to all
boats and vessels.

Threats.

men, and ballastmen, and all other lighters, boats, and vessels in the mid river, within the limits of this act, although otherwise exempted from the provisions of this act."

Public act.

Sect. 107 makes it a public act.

Theatre. See **Players**, *ante*. **Conspiracy**, Vol. I. p. 784;
Disorderly House, Vol. I.

Theft. See **Larceny**, Vol. III.

Theftbote. See **Felony**, Vol. II.

Thread.

THE 7 & 8 Geo. IV. s. 9, repeals the **28 Geo. III. c. 17**, relating to thread called *ounce or nun's thread*.

Threats.

I. Threats to Murder, or burn or destroy Property, p. 916.

[4 Geo. IV. c. 54, s. 3.]

II. Threats in order to obtain Money, &c., p. 919.

[7 & 8 Geo. IV. c. 29, s. 6, 7, 8, 9.]

III. Forms, List of, p. 921.

I. Threats to Murder, or burn or destroy Property.

Threatening letters to murder or burn, or destroy property.

BY the 4 Geo. IV. c. 54, s. 3, which repeals the 9 Geo. I. c. 22, and 30 Geo. II. c. 24, so far as the same relate to this offence, it is enacted "that, from and after the passing of this act, if any person shall knowingly and wilfully send or deliver any letter or writing, with or without any name or signature subscribed thereto, or with a fictitious name or signature, [demanding money or other valuable thing,] or threatening to kill or murder any of his majesty's subjects, or to burn or destroy his or their houses, out-houses, barns, stacks of corn or grain, hay or straw, (a) [or shall knowingly and wilfully send or deliver any such letter or writing, threatening to accuse any of his majesty's subjects of any crime punishable by law with death, transportation, or pillory, or of an infamous crime, with a view or intent to extort or gain money, security for

(a) The parts of this clause between brackets, relating to threats to extort money, &c., is repealed by the 7 & 8 Geo. IV. c. 27, and re-enacted by 7 & 8 Geo. IV. c. 29, *post*, p. 919.

goods or chattels, wares or merchandize, from the person or persons so threatened,] or shall procure, counsel, aid, or abet the commission of the said offences, or any of them, or shall forcibly rescue any person being lawfully in custody of any officer or other person for any of the said offences, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for such term not less than seven years, as the court shall adjudge, or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding seven years."

THREATS TO
MURDER, &c.

Shall knowingly and wilfully—Proof of a prisoner's delivering a threatening letter sealed up, to a person to carry to the post-office, will afford *prima facie* evidence of his knowledge of its contents. *R. v. Girdwood*, 2 *East's P. C.* 1120; 1 *Leach*, 142.

Knowingly and
wilfully.

Evidence of prior and subsequent letters between the prisoner and the party threatened may be received, to explain the intention of that on which the indictment is framed. 2 *Leach*, 749.

Send or deliver—Dropping a letter in a man's way, that he may pick it up, is a sending it to him. *R. v. Wagstaff, R. & R., C. C. R.* 398.

What a sending.

In *Lloyd's case*, 2 *East's P. C.* 1122, the letter was dropped in a vestry-room, frequented by the prosecutor every Sunday morning, where it was picked up by the sexton, and given to the prosecutor; and Mr. Justice Yates had no doubt but this was a sending, within the act.

So, in *Jepson and Springett's case*, *id. post.* 918, the letter was thrown into the prosecutor's yard, from whence it was taken up by the prosecutor's servant, and delivered to him.

And it was a sending within the 27 Geo. II. c. 15, though the party saw the prisoner drop the letter, if the prisoner did not think the party knew him, and intended he should not. *R. v. Wagstaff, R. & R., C. C.* 398.

To have brought the offence within 27 Geo. II. c. 15, the letter must have been sent to the person threatened, and so stated in the indictment; but the twelve judges intimated, that if a letter threatening A. is sent to B., and the prisoner intended that he should deliver it to A., and he does so deliver it, this is a sending it by the prisoner to A., and may be charged as such. *R. v. Padde, R. & R., C. C. R.* 484; *R. v. Dunkley, R. & M., C. C.* 90.

Where the wife wrote a threatening letter, and the husband carried it to the party threatened, it was held that the husband, though privy to the writing, was not within the now repealed statutes, 9 Geo. I. and 27 Geo. II.; nor could the wife alone be convicted, unless she wrote and sent it without the husband, who delivered it, being privy to the contents. *John Hammond and Mary Hammond* were indicted on the 9 Geo. I. c. 22, and 27 Geo. II. c. 15, for maliciously sending a threatening letter to *D. Dancer*, demanding 10*l.* It appeared in evidence that the prisoners were husband and wife, and lived as servants with the prosecutor; that the wife wrote the letter, and that it was delivered to the prosecutor by the husband, who said he found it in the prosecutor's garden; but there was no evidence that he had any knowledge of its contents. It was objected on behalf of the prisoners, that the offence described by the statutes on which the indictment was founded, was "knowingly sending a threatening letter:" whereas the evidence only showed that the wife had written the letter, and that the husband had delivered it; and that there was no proof of its having been sent to the prosecutor. The court (*Ashurst, J.* and *Penryn*,) agreed, that *merely writing* a threatening letter would not constitute the offence, within these acts of Parliament; that *carrying* a letter could not be comprehended under the word "send" in the statutes; that the legislature had not in contemplation that any person would be the carrier of a threatening letter which he himself had written or contrived, and that the act of delivering a threatening letter was not the offence described in those statutes; that if any doubt could be entertained upon that point, the legislature itself had removed it; for, by the subsequent act, 30 Geo. II. c. 24, the offence of delivering as well as sending a threatening letter was made a misdemeanor, punishable at the discretion of the court, according to the circumstances of the case. But

THREATS TO
MURDER, &c.

the court further observed, that there was still a question for the consideration of the jury; for, though *Mary Hammond* were the wife of the other prisoner, yet, if the jury were of opinion that she wrote the letter herself, without any intervention of her husband, and sent it by him, without his knowing anything of the contents, to the prosecutor, she alone might be found guilty; but that otherwise both the prisoners must be acquitted. The jury, on this direction, acquitted both the prisoners. *R. v. John and Mary Hammond, 2 East's P. C. 1119; 2 Leach, 499, S. C.*

Nature of the
letter or writing.

Any Letter or Writing with or without any Name or Signature subscribed thereto, or with a fictitious Name or Signature—By the wording of the prior statutes, 9 Geo. I. and 27 Geo. II., it was no offence if the defendant did not conceal himself. Therefore, sending a threatening letter without any name subscribed to it, demanding money, was not an offence within the 27 Geo. II. c. 15, [nor is it, it should seem, under the new act.] if the contents of the letter clearly show who was the writer, and that he could have no intention to conceal himself. It is the same in effect as if the party had put his name to it. *Hemmick's case, Warwick Sum. Ass. 1799, 2 East's P. C. 1116; 1 Leach, 445. n., S. C.*

In the case of *Michael Robinson*, who was indicted on these two statutes for sending a letter without any name subscribed thereto, to the prosecutor, demanding a certain valuable thing, viz. a bank-note, it appeared that the letter was signed R. R. It was objected (among other things) that this was not within the statutes, because the letter had a name subscribed to it; but all the judges were of opinion that there was no weight in this objection. *2 East's P. C. 1110; 2 Leach, 749, S. C.; and see R. v. Wagstaff, R. & R., C. C. 393.*

Nature of the
threat.

Threatening to burn Houses, &c.—A conviction on the now repealed act, 27 Geo. II. c. 15, for sending a letter to the prosecutor, threatening "to set fire to his mill, and likewise to do all the public injury they were able to him in his farm and seteres," was held wrong, he not then having any mill to which the threat of burning would apply (having parted with it three years before), and the threat as to the farm, &c. not necessarily implying a burning. *Jos. Jepson and George Springett* were indicted upon the act now repealed, 27 Geo. II. c. 15, for sending to the prosecutor, Mr. Woodgate, a letter according to the following effect:—

"March 3d, 1798.

"Mr. Woodgate.—Sir, I am very sorry to acquaint you that we are determined to set your mill on fire, and likewise to do all the public injury that we are able to do you in all your farms and seteres which you are in possession of without you on next day release that Ann Wood, which you put in confinement. Sir, we mention in a few lines, and we hope, if you have any regard to your wife and family, you will take our meaning without anything further; and you do not, we will persist as far as we possibly can, so you may lay your hands on your heart, and strive your uttermost ruin. I shall not mention nothing more to you until such time as you find the few lines a fact. With our respect. So on more at this time from me,

R. R."

It was proved that the letter was in the hand-writing of *Jepson*, and that it was thrown by the other prisoner into Mr. Woodgate's yard, from whence it was taken by a servant of Mr. Woodgate and delivered to him. Mr. Woodgate swore that he had a share in a mill three years before this letter was written, but had no mill at that time; that he held a farm when the letter was written and came to his hands, and still holds it, with several buildings upon it. It was objected that this was not such a letter as comprehended the offence of the act of Parliament, 27 Geo. II. c. 15. At a conference of the judges at the conviction, in Michaelmas term, 1798 (absent *Eyre, C. J.*), it was agreed that the prosecutor having no such property at the time as the mill which was threatened to be burnt, that part of the letter must be laid out of the question; but, as to the rest of it, *Lord Kenyon, C. J.*, and *Buller, J.* were of opinion that the letter must be understood as also importing a threat to burn the prosecutor's farm-house and buildings; but the other judges not thinking it necessary construction, the conviction was holden wrong, and a pardon recommended.

But, in the case of *R. v. Girdwood*, a letter accusing the prosecutor

having taken away the life of a friend of the writer's, who was come to revenge him, was ruled to be evidence to go to the jury, upon a charge of sending a letter threatening to kill and murder the prosecutor.

Whether the letter amount to a threat to kill or murder, is a fact to be determined by the jury. *R. v. Girdwood*, 2 *East's P. C.* 1121; and see *R. v. Tucker*, post, 920.

Indictment].—The indictment must set forth the threatening letter, in order that the court may judge whether it falls within the purview of the respective statutes. *Lloyd's case*, 1787, 2 *East's P. C.* 1123; see, further, *Indictment*, Vol. III. p. 347.

The party may be tried in the county where the letter was delivered to the prosecutor, though written by the prisoner, and by him sent, in another county. *Girdwood's case*, 2 *East's P. C.* 1120.

And the offence of sending a threatening letter may be laid in the county where it is delivered by the post. An indictment on the 30 Geo. II. against two defendants for sending a letter to the prosecutor, threatening to accuse him of an unnatural crime, with intent to extort money from him, laid the offence in Middlesex, but the letter was dated from Maidstone in Kent. The sending was proved by the defendant's confession. It was objected, that as the letter was dated and sent by the post from Maidstone, the fact of the sending, which constituted the offence, was committed in Kent, and the indictment would not lie in Middlesex. But Lord Mansfield, C. J., held that, as it was directed to the prosecutor in Middlesex, where it was delivered, that was a sending in Middlesex; for the whole was to be considered as the act of the defendant, to the time of the delivery in that county. *R. v. Esser*, 2 *East's P. C.* 1125; *R. v. Burdett*, ante, *Libel*, Vol. III. p. 628; *Indictment*, Vol. III. p. 330; 1 *Geo. IV. c.* 64, s. 12.

And it seems the prisoner may be tried in the county in which the prisoner sends the letter, though the prosecutor may receive it in another county. The offence described in the 9 Geo. I. c. 22, and 27 Geo. II. c. 15, is that of sending the threatening letter; it should seem, therefore, that the offence is complete, as far as depends on the prisoner, by his putting the letter into the post-office, to go into another county. By this act of putting the letter into the post-office, in the county of A., he sends it (in the language of the statutes) to the prosecutor, though the latter may afterwards receive it in the county of B.

II. Threats to Extort Money, &c.

It seems that an indictment will lie at common law for extorting money by actual duress, or by such threats as common firmness is not capable of resisting. Therefore, where money is extorted from a party by the threat of accusing him of an unnatural crime, and, from the circumstances of the case, the offence does not amount to robbery (as to which see ante, p. 316 to 321) it is indictable as a misdemeanor at common law. 2 *Russ.* 576; *R. v. Sonturton*, 6 *East*, 126, 140; 11 *Mod.* 137; 3 *Chit. C. L.* 840; and see forms of indictments, 3 *Chit. C. L.* 841, 842.

The 7 & 8 Geo. IV. c. 29, s. 6, enacts, "that if any person shall rob any other person of any chattel, money, or valuable security, every such offender, being convicted thereof, shall suffer death as a felon; and if any person shall steal any such property from the person of another, or shall assault any other person with intent to rob him, or shall, with menaces or by force, demand any such property of any other person with intent to steal the same, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding our years, and, if a male, to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment."

Sec. 7 enacts, "that if any person shall accuse, or threaten to accuse, any other person of an infamous crime, as hereinafter defined, with a view or intent to extort or gain from him, and shall by intimidating him by such accusation

THREATS TO
EXTORT MO-
NEY, &c.

Indictment.

Venue.

At common law.

Demands accom-
panied with
menaces or
force, felony.

Obtaining money,
&c., by threaten-
ing to accuse
party of an in-
famous crime,
a robbery.

THREATS TO
EXTORT MO-
NEY, &c.

Letters demand-
ing money, &c.

Accusations and
threats of accusa-
tion of certain
crimes.

Transportation
for life, or im-
prisonment.

What shall be
deemed infamous
crimes.

General clauses.

Other points as
to offence.

or threat extort or gain from him, any chattel, money, or valuable security, every such offender shall be deemed guilty of robbery, and shall be indicted and punished accordingly."

By sect. 8 it is enacted, "that if any person shall knowingly send or deliver any letter or writing, demanding of any person, with menaces, and without any reasonable or probable cause, any chattel, money, or valuable security; or if any person shall accuse or threaten to accuse, or shall knowingly send or deliver any letter or writing, accusing or threatening to accuse any person of any crime punishable by law with death, transportation, or pillory, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime, as hereinafter defined [sect. 9], with a view or intent to extort or gain from such person any chattel, money, or valuable security; every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment."

Sect. 9 enacts, "that the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt or endeavour to commit the said abominable crime, and every solicitation, persuasion, promise, or threat, offered or made to any person, whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this act."

See the general clauses affecting all the provisions of this act, *ante*, *Lawr.* Vol. III. p. 550 to 556.

The offence of *robbery*, and the threats and fear essential to constitute it, have been already considered, *ante*, *Robbery*.

As to what will amount to a guilty knowledge of sending, and the sending of a letter, within the meaning of the eighth section of the 7 & 8 Geo. IV. c. 29, see *ante*, p. 917.

Where the letter contained a request only, but intimated that, if it were complied with, the writer would publish a certain libel then in his possession, accusing the prosecutor of murder, this was holden to amount to a demand. *R. v. Robinson*, 2 Leach, 749; 2 East's P. C. 1110. But it is not necessary, under this branch of the statute, that the letter should contain a threat to appear to demand money, &c., in the strict sense of the word, it is sufficient if it bring it within the act. A mere request, however, such as asking charity, or the like, without imposing any conditions, would not come within the meaning of the word "demand" in the statute. *Per Buller, J., S. C.*

Where an anonymous letter stated that the writer had overheard certain persons agree together to do an injury to the person and property of the prosecutor, to whom the letter was sent, and that, if thirty sovereigns were paid at a particular place, the writer would give such information as would frustrate the attempt, it was held, that this was not a threatening letter within the 7 & 8 Geo. IV. c. 29, s. 8; although it appeared that the letter was a mere device to defraud the prosecutor of thirty sovereigns. *R. v. Pickford*, 4 C. & P. 227.

Whether the letter amount to a threat to accuse the prosecutor of the offence mentioned, is a fact to be determined by the jury. See *R. v. Girdlestone*, 2 East's P. C. 1121.

If the terms of the letter are doubtful as to the exact accusations the prisoner meant to threaten, his declarations subsequently made, on being asked what he meant to impute, are evidence to explain the meaning of the letter. *R. v. Tucker*, cor. Twelve Just., 1826 (MS.); *Car. C. L.*; *R. & M., C. C.* 11 S. C.

Indictment.

In *Edward Major's* case, the indictment charged that the prisoner, *intended to extort and gain money* from one *Augustine Rayner*, unlawfully, knowingly, and designedly, sent to the said A. R. a certain letter in writing, &c., threatening, &c.; and then set forth the letter, as follows: "Sir, I receive

etter respecting the bill which I gave you when we parted; and, as you know, I have it not in my power to pay it, and, if I had, it is an unjust demand. I have only to observe, that if you do not immediately return it to me as an acknowledgment for the obscene offence of sodomy attempted upon me, &c., I am determined to prosecute you to the utmost rigour of the law, &c. (Signed) *E. Major* (and dated), June 1st, 1796: "with a view and intent to extort and gain money from the said A. R., against the form of the statute, &c. The judges, on reference to them after conviction, in Michaelmas term, 1796, held the conviction wrong; for the letter was not sent to extort money, but to procure delivery up of the bill. *R. v. Major*, 2 *East's P. C.* 1118.

An indictment on the eighth section of the 7 & 8 Geo. IV. c. 29, must set forth the letter or writing sent.

But it need not specify the infamous crime of which the prosecutor was threatened to be accused; for the specific crime the prisoner threatened to charge might intentionally be left in doubt. *R. v. Tucker*, *R. & M.*, C. C. 34.

An indictment charging that the prisoner did feloniously and maliciously, with intent to extort, &c., "menace and threaten to prosecute J. N.," was not good, under the 4 Geo. IV. c. 54 (*ante*, p. 916); but, if the indictment had allowed the terms of the statute, and the evidence been of a threat to prosecute, the judge would leave it to the jury to say whether that was not a threatening to accuse. *R. v. Abgood*, 2 C. & P. 436.

An indictment on the statute for demanding money must show by whom it was demanded; and an indictment on the statute for threatening to accuse must show who was threatened. *R. v. Dunkley*, *R. & M.*, C. C. R. 90.

It seems questionable whether a count framed on a letter demanding money will be supported by evidence that the letter was written with a view to extort money. *R. & M.*, C. C. 38; 2 *East's P. C.* 1110; *Leuch*, C. C. 749, 4th d., S. C.

See, further, as to the indictment and venue, *ante*, p. 917.

III. Forms, List of.

COMMITMENT on 4 Geo. IV. c. 54, s. 3, for sending a Letter threatening to Murder or Burn, &c. (No. 1.)

INDICTMENT for a like Offence, (No. 2.)

COMMITMENT on 7 & 8 Geo. IV. c. 29, s. 6, for demanding Money by menaces, with Intent to Steal it, (No. 3.)

INDICTMENT for a like Offence, (No. 4.)

WARRANT to apprehend, on 7 & 8 Geo. IV. c. 29, s. 8, for sending a Threatening Letter, demanding Money, (No. 5.)

COMMITMENT for a like Offence, (No. 6.)

INDICTMENT for a like Offence, (No. 7.)

COMMITMENT on 7 & 8 Geo. IV. c. 29, s. 8, for threatening to accuse a man of a Crime, to extort Money, &c. (No. 8.)

INDICTMENT for a like Offence, (No. 9.)

COMMITMENT on 7 & 8 Geo. IV. c. 29, s. 8, for sending a Letter, threatening to accuse a man of a Crime, to extort Money, &c. (No. 10.)

INDICTMENT for a like Offence, (No. 11.)

(No. 1.)

Commencement as usual, as *ante*, p. 71. — on, &c., at, &c., knowingly, wilfully, and feloniously, did send [or, deliver] to A. B. a certain letter and writing, thereby and therein threatening to kill and murder [or, burn or destroy a certain outhouse of, or, houses, outhouses, barns, stacks of corn or grain, or hay or rawn] of the said A. B.; against the form of the statute in such case made and provided. And you, the said keeper, &c. [as usual, to the end.]

Commitment on 4 Geo. 4, c. 54, s. 3, for sending a letter, threatening to murder or burn, &c.

FORMS.

(No. 2.)

Indictment for a like offence.

_____ } *The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., with force and arms, at, &c., knowingly, wilfully, and feloniously, did send and deliver [send or deliver] a certain letter and writing [letter or writing], directed to one A. B., a liege subject of our lord the king then and there being, thereby and therein then and there threatening to kill and murder the said A. B. [or, to burn and destroy a certain house of the said A. B., or houses, outhouses, barns, stacks of corn or grain, hay or straw, according to the fact], and which said letter and writing was and is as follows: that is to say, "Sir," &c. [here set out the letter verbatim]; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. [Add other counts, as the case may suggest.]*

(No. 3.)

Commitment on 7 & 8 Geo. 4, c. 29, s. 6, for demanding money, &c., with menaces, with intent to steal it.

Commencement as usual, as ante, p. 71.] — on, &c., at, &c., aforesaid in the said county, did with menaces [or, by force] feloniously demand of and from A. B. money [chattel, money, or valuable security, according to the fact], [or, a certain chattel, to wit, _____], [or, a certain valuable security, to wit, _____] of him, the said A. B., with intent the said money [chattel or valuable security] from the said A. B. then and there feloniously to steal, take, and carry away; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]

(No. 4.)

Indictment for a like offence.

_____ } *The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., at, &c., with menaces [or, by force], did maliciously and feloniously demand of and from one A. B. his, the said A. B.'s, money [any chattel, money, or valuable security], with a felonious intent the said money of the said A. B. feloniously to steal, take, and carry away; against the form of the statute in such case made and provided, and against the peace of our lord the king, his crown and dignity. [Add other counts, as the case may suggest.]*

(No. 5.)

Warrant to apprehend, on 7 & 8 Geo. 4, c. 29, s. 8, for sending a threatening letter, demanding money.

_____ } *To E. F., the constable of _____, and to all other peace-officers in the said county, and others whom this may concern.*
Forasmuch as A. B., of _____, in the said county, [gentleman], hath day made information and complaint upon oath before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, that he did, on, &c., at, &c., receive a certain letter in writing from some person or persons unknown to the said A. B. without any name or signature subscribed thereto, directed to him, the said A. B., mandating of the said A. B. money, and threatening to kill the said A. B. [stating the terms of the letter, as the case may be]; and that he, the said A. B. hath just cause to suspect, and doth suspect, that the said letter was written and sent by one C. D., late of, &c.: these are, therefore, to command you, in his majesty's name, forthwith to apprehend and bring before me, or some other of his majesty's justices of the peace, in and for the said county, the body of the said C. D., in answer unto the said complaint, and to be further dealt withal, according to law. Herein you not. Given under my hand and seal, the _____ day of, &c.

(No. 6.)

Commitment on 7 & 8 Geo. 4, c. 29, s. 8, for sending a letter demanding money, &c., with menaces, &c.

Commencement as usual, as ante, p. 71.] — on, &c., at, &c., knowingly and feloniously did send [send or deliver] to A. B. a certain letter [letter or writing] demanding money [or, a certain chattel, to wit, _____], [or, a certain valuable security, to wit, _____] of and from the said A. B., with menaces, without any reasonable or probable cause; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]

(No. 7.)

_____ } *The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., at, &c., with force and arms, knowingly and feloniously did send [or, deliver] a certain letter [or, writing] to one A. B., thereby and therein demanding of the said A. B. money [or, a certain chattel, to wit, _____, or, a certain valuable security, to wit, a certain _____], the property of the said A. B., with menaces, and without any reasonable or probable cause; and which said letter was and is as follows: that is to say [set out the letter verbatim]; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. [Add other counts, as the case may suggest.]*

Indictment for a like offence.

(No. 8.)

Commencement as usual, as ante, p. 71.] — *on, &c., at, &c., feloniously did threaten A. B. to accuse [accuse, or threaten to accuse] him, the said A. B., of having [attempted and endeavoured to commit the abominable crime of burglary upon C. D.], with a view to extort and gain money [chattels, money, or valuable security] from the said A. B.; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]*

Commitment on 7 & 8 Geo. 4, c. 29, s. 8, for threatening to accuse a man of a crime, &c., with intent to extort money, &c.

(No. 9.)

_____ } *The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., at, &c., with force and arms, at, &c., maliciously and feloniously did accuse [or, threaten to accuse] one A. B. of [any crime punishable by law with death, transportation, or pillory, or any infamous crime, or of any assault with intent to commit, &c.], with a view and intent to extort and gain money [chattel, money, or valuable security] from the said A. B.; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity.*

Indictment for a like offence. (a)

(No. 10.)

Commencement as usual, as ante, p. 71.] — *on, &c., at, &c., knowingly and feloniously did send [send or deliver] to A. B. a certain letter [letter or writing], threatening to accuse [accusing, or threatening to accuse] him, the said A. B., of having [attempted and endeavoured to commit the abominable crime of burglary upon C. D.], with a view and intent thereby to extort and gain money [chattel, money, or valuable security] from the said A. B.; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]*

Commitment on 7 & 8 Geo. 4, c. 29, s. 8, for sending a letter, threatening to accuse a man of a crime, with intent to extort money, &c.

(No. 11.)

_____ } *The jurors for our lord the king upon their oath present, that C. D., late of, &c., on, &c., at, &c., with force and arms, knowingly and feloniously did send [or, deliver] to one A. B. a certain letter [or, writing], accusing [or, threatening to accuse] the said A. B. of a certain crime, to wit, the crime of, &c. [any crime punishable by law with death, transportation, or pillory, or of any assault with intent to commit any rape, or any attempt or endeavour to commit any rape, or of any infamous crime, as mentioned in sect. 9 of the 7 & 8 Geo. IV. c. 29], with a view and intent thereby then and there feloniously to extort and gain from the said A. B. money [or, a certain chattel, to wit, _____, or, a certain valuable security], and which said letter [or, writing] was and is as follows [here set out the letter verbatim]; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. [Add other counts, as the case may suggest.]*

Indictment for a like offence.

(a) See a very full form, with twenty-four counts, in 3 *Chit. C. L.* 844, 2d ed.

Time. (a)

- Statement of.** AS to the statement, &c. of, in an indictment, see *Indictment*, Vol. III. p. 344; in a conviction, see *Conviction*, Vol. I. p. 816, 819; as to proof, see *Evidence*, Vol. II. p. 23.
- Time of memory.** Time of memory hath been long ago ascertained by the law to commence from the beginning of the reign of Rich. I., viz. sixth of July, A. D. 1189, and any custom may be destroyed by evidence of non-existence in any part of the long period from that time to the present. 2 *Inst.* 238, 239; 2 *Bla. Com.* 32.
This rule was adopted when, by stat. West. 1 (3 Edw. I. c. 39), the reign of Rich. I. was made the time of limitation in a writ of right; but by the 32 Hen. VIII. c. 2, this period in a writ of right has been since reduced to sixty years *Ibid.*
- A year.** The year consists of three hundred and sixty-five days; there are six hours within a few minutes over in each year, which, every fourth year, makes another day, viz. three hundred and sixty-six, and being the 29th of February, constitute the Bissextile or leap-year. *Co. Lit.* 135; 2 *Roll.* 521, l. 35; *Com. Dig. Ann.* (A.); 24 Geo. II. c. 23, s. 2; 2 *Bla. Com.* 140, notes by Chitty.
Where a statute speaks of a year, it shall be computed by the whole twelve months, according to the calendar, and not by a lunar month. *Cro. Jac.* 166.
But if a statute direct a prosecution to be within twelve months, it is too late to proceed after the expiration of twelve lunar months. *Carth.* 407.
A twelvemonth in the singular number includes all the year, but twelve months shall be computed according to twenty-eight days for every month. 6 *Rep.* 62.
The 43 Geo. III. c. 84, which prohibits, under a penalty, a spiritual person from absenting himself from his benefice for more than a certain time in any year, means year from the time when the action is brought for the penalty. 2 *M. & S.* 534.
- Half a year.** Half a year consists of one hundred and eighty-two days, for there shall be no regard to a part or a fraction of a day. *Co. Lit.* 135, b.; *Cro. Jac.* 166.
The time to collate within six months shall be reckoned half a year, or one hundred and eighty-two days, and not lunar months. *Cro. Jac.* 166; 6 *Rep.* 61.
2 *Bla. Com.* 140, notes by Chitty.
- Quarter of a year.** A quarter of a year consists but of ninety-one days, for the law does not regard the six hours afterwards. *Co. Lit.* 135, b.; 2 *Roll.* 521, l. 40; *Com. Dig. Ann.* (A.)
But both half-years and quarters are usually divided according to certain feasts or holydays, rather than a precise division of days, as Lady Day, Midsummer Day, Michaelmas Day, or Christmas, or old Lady Day (sixth of April) or old Michaelmas Day (the eleventh of October). In these cases such division of the year by the parties is regarded by the law, and, therefore, though half a year's notice to quit is necessary to determine a tenancy from year to year, yet a notice served on the twenty-ninth of September, to quit on the twenty-fifth of March, being half a year's notice according to the above division, is good, though it be less than one hundred and eighty-two, viz. one hundred and seventy-two days. 4 *Exp. R.* 5, 198; 6 *Exp.* 53; *Schw. N. P. Ejectment*; *Adams*, 22; 2 *Bla. Com.* 149, notes by Chitty.
- Month.** A month is solar, or computed, according to the calendar, which consists of thirty or thirty-one days; or lunar, which consists of twenty-eight days. *Co. Lit.* 135, b.
In temporal matters, it is usually construed to mean lunar: in ecclesiastical, solar or calendar. 1 *Bla. R.* 450; 1 *M. & S.* 111; 1 *Bing. Rep.* 307.

(a) Ser., as to time in general, 2 *Bla. Com.* 140, by Chitty; *Com. Dig. Ten. Vin. Ab. Time.*

In general, when a statute speaks of a month without adding "calendar," or other words showing a contrary intention, it shall be intended a *lunar* month of twenty-eight days. See *Com. Dig. Ann. (B.)*; *Lacon v. Hooper*, 6 T. R. 224; 3 *East*, 407; *Crooke v. M^cTavish*, 1 Bing. R. 307; and, generally, in all matters temporal, the term month is understood to mean *lunar*, but in matters ecclesiastical, as non-residence, it is deemed a calendar month; because, in each of these matters, a different mode of computation prevails: the term, therefore, is taken in that sense which is conformable to the subject-matter to which it is applied. 2 *Roll. Ab.* 521, 51; 1 *Bla. R.* 450; *Lang v. Gale*, 1 M. & S. 117; 1 Bing. R. 307; *Com. Dig. Ann. (B.)*; and, therefore, when a deed states *calendar* months, and, in pleading, the word calendar be omitted, it is not necessarily a variance. 3 B. & B. 186; 2 *Bla. Com.* 140, notes by Chitty.

When a deed speaks of a month, it shall be intended a lunar month, unless it can be collected from the context that it was intended to be calendar. 1 M. & S. 111; *Com. Dig. Ann. (B.)*; *Cro. Jac.* 167; 4 *Mod.* 185. So, in all other contracts, 4 *Mod.* 185, 1 *Str.* 446, unless it be proved that the general understanding in that department of trade is, that bargains of that nature are according to calendar months. 1 *Str.* 652; 1 M. & S. 111. And the custom of trade, as in case of bills of exchange and promissory notes, has established, that a month named in those contracts shall be deemed calendar. 3 B. & B. 187.

In all legal proceedings, as in commitments, pleadings, &c., a month means four weeks. 3 *Burr.* 1455; 1 *Bla. R.* 450; *Dougl.* 463, 446. When a calendar month's notice of action is required, the day on which it is served is occluded, and reckoned one of the days; and, therefore, if a notice be served on the 28th of April, it expires on the 27th of May, and the action may be commenced on the 28th May. 3 T. R. 623; 2 *Campb.* 294. And when a statute requires the action against an officer of customs to be brought within three months, they mean lunar, though the same act requires a calendar month's notice of action. *Crooke v. M^cTavish*, 1 Bingh. R. 307.

A day is natural, which consists of twenty-four hours; or artificial, which contains the time from the rising of the sun to the setting. *Co. Lit.* 135, a. A day.

A day is usually intended of a natural day: as, in an indictment for burglary, we say in the night of the same day. *Co. Lit.* 135, a.; 2 *Inst.* 318.

The question whether, in computing time from an act or event, the day is to be included or excluded, came under the consideration of Sir William Grant, in *Lester v. Garland*, 15 Ves. 247. All the authorities on the subject are there reviewed by him, who takes this distinction, that where the act done, from which the computation is made, is one to which the party against whom the time runs is privy, the day of the act done may reasonably be included; but here it is one to which he is a stranger, it ought to be excluded. He points out this as a distinction which will reconcile many of the cases. He observes, at in the case of a notice of action to be brought, the party necessarily knows the time at which he is served with the notice, and may immediately begin to consider of the propriety of preventing the action, by tendering amends. See, per Bayley, J., *Hardy v. Ryle*, 9 B. & Cres. 608.

When day excluded or included.

Where a party was improperly committed by a magistrate, and was discharged from imprisonment on the 14th of December, and the writ, in an action against the magistrate for such false imprisonment, was issued on the 14th June, it was held, the action was commenced within the six months limited by the 24 Geo. II. c. 44, s. 8. *Hardy v. Ryle*, 9 B. & Cres. 603.

In *Pellew v. Inhabitants of Wonford*, 9 B. & C. 134, an action was brought to recover damages for an injury done to premises maliciously set on fire. By the 9 Geo. I. c. 22, required notice to be given within two days after the injury done. The fire happened on Saturday, the notice was given on the Monday following, and the Court of King's Bench, acting upon the rule laid down by Sir William Grant, *supra*, held that the day of the happening of the event, from which the computation of time was to run, was to be included.

However, in a case in equity, the Master of the Rolls, after considering many

TIME.

of the decisions, said, upon the first part of this rule, that whatever dicta there may be that, when a thing is to be done after the doing of an act, the day of its happening must be included, it is clear the actual decision cannot be brought under any such a general rule; and he inclined for excluding the first day in all cases, and ruled, that where a security was to be given within six months after a testator's death, the day of the death was to be excluded. 15 Ves. 248.

When a month's notice of action is necessary, it begins with the day on which the notice is given. 3 T. R. 623; and see *Hob.* 139.

Sometimes days are calculated *exclusively*: as, where an act required ten clear days' notice of the intention to appeal, it was held that the ten days are to be taken exclusively both of the day of serving the notice and the day of holding the sessions. 3 B. & A. 581; *Appeals*, Vol. I. p. 144.

Fractions of a day.

As to *fractions of a day*, the Master of the Rolls, in *Lester v. Gault*, 15 Ves. 248, observes, "Our law rejects fractions of a day more generally than the civil law does. The effect is to render the day a sort of indivisible point; so that any act done in the compass of it is no more referable to any one than to any other portion of it; but the act and the day are co-extensive and therefore the act cannot be said to be past till the day is past." And see *Hardy v. Ryle*, 9 B. & C. 603. But though the law generally rejects *fractions of a day* (15 Ves. 257; *Co. Lit.* 135, b.; 9 East, 154; 4 T. R. 611; 11 East, 496, 498; 3 Rep. 36, a.), yet it admits it in cases where it is necessary to distinguish for the purposes of justice; and "I do not see why the very hour may not be so too, where it is necessary, and can be done; for it is not like a mathematical point, which cannot be divided." Per *Ld. Mansfield* 3 Burr. 1434; 9 East, 154; 3 Rep. 36, a. Therefore, a fraction of a day was admitted in support of a commission of bankruptcy, by allowing evidence that the act of bankruptcy, though on the same day, was previous to issuing the commission. 3 Ves. 8. So, where goods are seized under a *fieri facias*, the same day that the party commits an act of bankruptcy, it is open to inquire at what time of the day the goods were seized and the act of bankruptcy was committed; and the validity of the execution depends on the actual priority. 4 Camp. 197; 2 B. & A. 586; 2 Bla. Com. 141, note by *Chitty*.

An hour.

An hour consists of sixty minutes. *Com. Dig. Ann. (C)*. By a misprint: 2 Inst. 318, it is stated to be forty minutes. There is a distinction in law as to the certainty of stating a month, or day, or an hour. When a fact took place, *circa horum* is sufficient; but not so as to a day, which must be stated with precision, though it may be varied from in proof. 2 Inst. 318; 2 Bla. Com. 140, notes by *Chitty*.

Vin. See *Petrotter*, ante, p. 97. *Malicious Injuries to Property*.
Vol. III. p. 730.

Tithes. (a)

- I. *Summary Remedy for, when due from any Person*, p. 927.
[7 & 8 Wil. III. c. 6; 53 Geo. III. c. 127; 7 Geo. IV. c. 15; 7 & 8 Geo. IV. c. 17.]
- II. *Summary Remedy for, and other Church Rates and Payments, due from Quakers only*, p. 932.
[7 & 8 Wil. III. c. 34; 1 Geo. I. st. 2, c. 6; 27 Geo. II. c. 20; 53 Geo. III. c. 127.]
- III. *Of Contempts for Tithes in the Spiritual Court*, p. 934.
[27 Hen. VIII. c. 20; 32 Hen. VIII. c. 7.]
- IV. *Forms, List of*, p. 934.

I. Summary Remedy for Tithes due from any Person.

THE books in general confound the 7 & 8 Wil. III. c. 6, concerning small tithes only, due from any person whatsoever (whether Quaker or not, being no way material), with the 7 & 8 Wil. III. c. 34, and 1 Geo. I. st. 2, c. 6, concerning Quakers' tithes only, great and small, and their other church dues. Nevertheless, the acts are entirely distinct in themselves, and the method of proceeding in the one case and in the other is different in almost every instance. Care has therefore been taken to extricate them out of this confusion, by inserting them separately, and by drawing distinct forms upon each, according to the different methods of proceeding.

Summary remedy
for tithes due from
any person.

The 7 & 8 Wil. III. c. 6 (which we shall presently notice more fully), gives summary remedy, before two justices of the peace, for the more effectual recovery of small tithes, offerings, oblations, obventions, and compositions, where the same do not amount to above the yearly value of 40s. from any person.

The 53 Geo. III. c. 127, s. 4, *post*, p. 931, extends this summary remedy to all tithes whatever, whether great or small, where the value does not exceed 10*l*.

The 7 Geo. IV. c. 15, enacts, that in places where justices are pastors of the church, the tithes are to be recovered before justices of any adjoining county. See the enactment, *post*, p. 931.

By virtue of these statutes, if any persons subtract or fail in the payment of tithes for twenty days after demand thereof, the parson, vicar, or other person to whom they are due, may make his complaint in writing before any justice of the peace, who shall summon the persons against whom the complaint is made, before two justices of the peace, neither of whom is to be patron of the benefice to which the tithes belong, who are authorized to hear and determine all such complaints touching tithes, oblations, and compositions subtracted or withheld, where the value does not exceed 10*l*. See 2 *Eagle on Tithes*, 389.

"In principle, it is clear that this statute of Wil. was intended only to apply to those cases in which the tithes were actually due, independently of any dispute upon matters of law, either with regard to the person receiving them, or the manner of receiving them. We cannot doubt that this is the principle of the act. The object of it was to give to the owner of tithes an expeditious mode of recovering them; and it must be obvious that a cheap and expeditious remedy in such cases must be no less beneficial to the tithe owner than to him who is to pay. Every suit for subtraction of tithes, whether in a court of common law, or a court having ecclesiastical cognizance, is in its nature very expensive, and of course equally burdensome to him

(a) See, in general, the late excellent work of Mr. *Eagle on Tithes*; Toller on *Tithes*; *Eagle and Young*; *Mirehouse on Tithes*.

DUE FROM ANY
PERSON.

who claims and him who pays. One cannot doubt that it was to remedy this evil this act was passed." *Per Abbott, C. J., R. v. Jeffery, 2 D. & R. 860; 1 B. & C. 604, S. C.; 3 Eag. & Y. 1098; Gw. 2065.*

It may be well to observe, that a party who abandons his complaint to the justices before any order is made, is not precluded from suing for the same tithes in the spiritual court. *Manser v. Taylor, 2 Eagle on Tithes, 393; 3 Eag. & Y. 1275.*

We will now proceed to notice the above statutes and the decisions thereon in detail.

Small tithes not paid in 30 days after demand, lawful to complain to two justices not interested, (a)

† *See* in act.

By the 7 & 8 Wil. III. c. 6, intituled "An Act for the more easy Recovery of small Tithes," after reciting that, "for the more easy and effectual recovery of small tithes, and the value of them, where the same shall be unduly subtracted† and detained, where the same do not amount to above the yearly value of 40s., from any one person:" (b) it is enacted, "that all and every person or persons shall henceforth well and truly set out and pay all and singular the tithes, commonly called the small tithes, and compositions and agreements for the same, with all offerings, oblations, and obventions, to the several rectors, vicars, and other persons, to whom they are or shall be due, in their several parishes within this kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed, according to the rights, customs, and prescriptions commonly used within the said parishes respectively; and if any person or persons shall hereafter subtract or withdraw, or any ways fail in the true payment of such small tithes, offerings, oblations, obventions, or compositions as aforesaid, by the space of twenty days at most after demand thereof, then it shall and may be lawful for the person or persons, to whom the same shall be due, to make his or their complaint in writing unto two or more of his majesty's justices of the peace within that county, (c) riding, city, town corporate, place, or district where the same shall grow due; neither of which justices of peace is to be patron (c) of the church or chapel whence the said tithes do or shall arise, nor any ways interested in such tithes, offerings, oblations, obventions, or compositions aforesaid."

Order for non-payment of small tithes was quashed, because it was made only upon complaint generally, and the statute requires the complaint to be in writing. *R. v. Furness, 1 Str. 264.*

who may summon the persons complained of, and on default of appearance determine the complaint, &c.

Sect. 2. "That if hereafter any suit or complaint shall be brought to two or more justices of the peace as aforesaid, concerning small tithes, offerings, oblations, obventions, or compositions as aforesaid, the said justices are hereby authorized and required to summon, in writing under their hands and seals, by reasonable warning, every such person or persons against whom any complaint shall be made as aforesaid, and after his or their appearance, or upon default of their appearance, the said warning or summons being proved before them upon oath, the said justices of peace, or any two or more of them, shall proceed to hear and determine the said complaint, and upon the proofs, evidences, and testimonies, produced before them, shall, in writing under their hands and seals, adjudge the case, and give such reasonable allowance and composition for such tithes, oblations, and compositions so subtracted or withheld, as they shall judge to be just and reasonable, and also such costs and charges, not exceeding 10s., as upon the merits of the cause shall appear just."

On refusal to pay in ten days after notice, the constables, &c. may distrain.

Sect. 3. "That if any person or persons shall refuse or neglect, by the space of ten days after notice given, to pay or satisfy any such sum of money, as by such complaint and proceeding shall by two or more justices of the peace be adjudged as aforesaid, in every such case the constables and churchwardens of the said parish, or one of them, shall, by warrant under the hands and seals of the said justices to them directed, distrain the goods and chattels of the person so refusing or neglecting as aforesaid, and after detaining them by the space

enacts, that where justices are present of the church, tithes are to be recovered before justices of any adjoining county.

(a) See Form (No. 1), *post*.

(b) See the 53 Geo. III. c. 127, s. 4, enlarging these provisions, *post*.

(c) See the 7 Geo. IV. c. 15, *post*, which

three days, in case the said sum so adjudged to be paid, together with reasonable charges for making and detaining the said distress, be not tendered or paid by the said party in the meantime, shall and may make public sale of the same, and pay to the party complaining so much of the money arising by such sale as may satisfy the said sum so adjudged, retaining to themselves such reasonable charges for making and keeping the said distress, as the said justice shall think fit, and shall render the overplus (if any be) to the owner."

DUE FROM ANY
PERSON.
7 & 8 Wil. 3, c. 6.

Sect. 4. "Provided that it shall and may be lawful for all justices of peace, in the examination of all matters offered to them by this act, to administer an oath or oaths to any witness or witnesses, where the same shall be necessary for their information, and for the better discovery of the truth."

Justices to administer an oath.

Sect. 5. "Provided, that this act, or anything herein contained, shall not extend to any tithes, oblations, payments, or obventions, within the city of London, or liberties thereof, nor to any other city or town corporate where the same are settled by any act of Parliament in that case particularly made and provided."

Not to extend to London, &c.

Sect. 6. "Provided that no complaint for or concerning any small tithes, offerings, oblations, obventions, or compositions, hereafter due, shall be heard and determined by any justices of the peace, by virtue of this act, unless the complaint shall be made within the space of two years next after the times that the same tithes, oblations, obventions, and compositions, did become due or payable; anything in this act contained to the contrary notwithstanding."

No complaint to be heard unless made within two years.

Sect. 7. "Provided, that any person finding him, her, or themselves aggrieved, by any judgment to be given by any two justices of the peace, shall and may appeal to the next general quarter sessions to be held for that county, riding, city, town corporate, or division, and the justices of the peace there present, or the major part of them, shall proceed finally to hear and determine the matter, and to reverse the said judgment if they shall see cause; and if the justices then present, or the major part of them, shall find cause to confirm the judgment given by the first two justices of the peace, they shall then decree the same by order of sessions, and shall also proceed to give such costs against the appellant, to be levied by distress and sale of the goods and chattels of the said appellant, as to them shall seem just and reasonable; and no proceedings, or judgments had or to be had by virtue of this act, shall be removed or superseded by virtue of any writ of *certiorari*, or other writ out of his majesty's courts at Westminster, or any other court whatsoever, unless the title of such tithes, oblations, or obventions, shall be in question; any law, statute, custom, or usage, to the contrary notwithstanding."

Persons aggrieved may appeal to the sessions.

If judgment be confirmed, justices to give costs, &c.

Sect. 8. "That where any person or persons complained of for substracting or withholding any small tithes, or other duties aforesaid, shall, before the justices of the peace to whom such complaint is made, insist upon any prescription, composition, or *modus decimandi*, agreement, or title, whereby he or she is or ought to be freed from payment of the said tithes, or other dues in question, and deliver the same in writing to the said justices of the peace, subscribed by him or her, and shall then give to the party complaining reasonable and sufficient security, to the satisfaction of the said justices, to pay all such costs and damages, as upon a trial at law to be had for that purpose, in any of his majesty's courts having cognizance of that matter, shall be given against him, her, or them, in case the said prescription, composition, or *modus decimandi*, shall not upon the said trial be allowed; that in that case the said justices of the peace shall forbear to give any judgment in the matter; and that then and in such case the person or persons so complaining shall and may be at liberty to prosecute such person or persons for their said substruction in any other court or courts whatsoever, where he, she, or they might have sued before the making of this act; anything in this act to the contrary notwithstanding."

Persons complained of, insisting on any composition, &c. and giving security to pay costs, justices not to give judgment.

Sect. 9. "That every person and persons, who shall by virtue of this act obtain any judgment, or against whom any judgment shall be obtained, before any justices of the peace out of sessions, for small tithes, oblations, obventions, or compositions, shall cause or procure the said judgment to be enrolled at the next general quarter sessions to be holden for the said county, city, riding, or division; and the clerk of the peace for the said county, city, riding, or division,

Judgment to be enrolled at the next sessions by the clerk of the peace, &c.

DUE FROM ANY
PERSON.
7 & 8 Wil. 3, c. 6.

is hereby required, upon tender thereof, to enrol the same; and that he shall not ask or receive for the enrolment of any one judgment any fee or reward exceeding 1s.; and that the judgment so enrolled, and satisfaction made by paying the same sum so adjudged, shall be a good bar to conclude the said rector, vicars, and other persons, from any other remedy for the said small tithes, oblations, obventions, or compositions, for which the said judgment was obtained."

Persons removing, justices may certify the judgment, &c.

Sect. 10. "That if any person or persons, against whom any such judgment or judgments shall be had as aforesaid, shall remove out of the county, riding, city, or corporation, after judgment had as aforesaid, and before the levying the sum or sums thereby adjudged to be levied, the justices of the peace who made the said judgment, or one of them, shall certify the same, under his or their hands and seals, to any justice of peace of such other county, city, or place, wherein the said person or persons shall be inhabitants; which said justice is hereby authorized and required, by warrant under his hand and seal, to be directed to the constables or churchwardens of the place, or one of them, to levy the sum or sums so adjudged to be levied, as aforesaid, upon the goods and chattels of such person or persons, as fully as the said other justices might have done, if he, she, or they had not removed as aforesaid; which shall be paid according to the said judgment."

Justices may give costs not exceeding 10s.

Sect. 12. "That the said justices of the peace, who shall hear and determine any of the matters aforesaid, shall have power to give costs, not exceeding 10s., to the party prosecuted, if they shall find the complaint to be false and vexatious; which costs shall be levied in manner and form aforesaid."

Double costs.

Sect. 13. "Provided, that if any person or persons shall be sued for anything done in execution of this act, and the plaintiff in such suit shall discontinue his action, or be nonsuit, or a verdict pass against him, that then, in any of the said cases, such person or persons shall recover double costs."

Suits for tithes not exceeding 40s., to have no benefit by this act.

Sect. 14. "Provided always, that any clerk, or other person or persons, who shall begin any suit for recovery of small tithes, oblations, or obventions, not exceeding the value of 40s., in his majesty's Court of Exchequer, or in any of the ecclesiastical courts, shall have no benefit by this act, or any clause in it, for the same matter for which he or they have so sued."

Certiorari.

With regard to the writ of *certiorari*, it seems a doubtful question whether the word "*title*" is to be taken in a strict sense, as applying merely to those cases in which the question is to whom the tithes are due, or whether it extends to a question of prescription, *modus*, custom, or other exemption, which does not negative the *prima facie* title, but only operates as a legal bar to the demand of tithes. From what fell from *Abbott, C. J.*, in *R. v. Jefferys*, *infra*, it should seem the word "*title*" ought to be taken in its strict sense. See *vide R. v. Furness*, 11 *Mod.* 320; 1 *Str.* 264; 1 *E. & Y.* 750.

Before a *certiorari* issues, it must be shown that the title was really in question. *R. v. Wakefield*, 1 *Burr.*; 2 *E. & Y.* 153; *Constitution*, Vol. I. p. 322.

Questions of *modus*.

The sessions, on an appeal, may reject evidence of a *modus* which was not offered to the two justices who made the order. It seems, also, that the power of justices to try questions of tithe under the 7 & 8 Wil. III. c. 6, is taken away by the eighth section of that act, where a question of *modus* is raised. *R. v. Jefferys*, 1 *B. & C.* 604; 2 *D. & R.* 860; 3 *E. & Y.* 1098, S. C. The justices, by an order dated the fifth day of November, 1821, ordered *Jefferys* to pay to the lessee of the tithes of the parish of Glemsford, in the county of Suffolk, the sum of 6*l.* for his tithe of milk and calves, arising in the parish of Glemsford, and due to the lessee, together with his costs and charges. *Jefferys* was duly summoned to answer the complaint of the lessee, and appeared before the justices, but offered no evidence of a *modus*. The sessions, on appeal, confirmed the order, subject to the opinion of the court upon the following case:—The respondent having proved the notice, summons, and order, and his title as lessee, and that the value of the tithe was of the amount demanded, the appellant claimed to be exempted from the payment of the tithe, inasmuch as it was covered by a *modus*, and he tendered evidence to prove the existence of such a *modus*. The court rejected the evidence, being of opinion that

they had no power to try the question. *Abbott, C. J.*, after argument, said, "As at present advised, I am disposed to think that by *modus*, in this statute, something different from title is meant. And as the word *modus* is not to be found in the seventh section, which relates to the *certiorari*, I think that the writ ought not to have issued. I am also disposed to think, that the eighth section is compulsory, that the party relying upon a *modus* shall set it up in the manner thereby directed. The act was intended to apply where there was no question of law as to the right to the tithe; that in such cases the party entitled might have a cheap remedy, which could not be injurious to the party from whom the tithe is due. If the eighth section be not compulsory, this consequence will follow, that the party called upon to pay may, at his will and pleasure, leave the question of *modus* to be tried by the justices, or may withdraw it from their consideration; whereas the other side can have no such option. This, however, is a point of great consequence, and I should have wished for more time to consider it, if our judgment proceeded upon that ground. But upon the other point I entertain no doubt. If it was originally the intention of the party to set up a *modus*, he should have stated that before the two justices. In making a claim of tithes, the party would come prepared to show he occupation of land by the party refusing to pay, and that titheable matter was produced. A question of *modus* is something quite distinct from that which the party claiming would come prepared to prove. If, therefore, the *modus* was not set up in the first instance, the justices at sessions might exercise their discretion as to receiving or rejecting evidence of it. The claimant might otherwise be taken by surprise, and the defendant would obtain a very unfair advantage." Order of sessions affirmed.

DUE FROM ANY
PERSON.

The 53 Geo. III. c. 127, s. 4, (a) after reciting the 7 & 8 Wil. III. as to recovery of small tithes, to the value of 40s., and that it was expedient to enlarge such amount, and to extend the said amount to all tithes whatsoever of certain limited amount, enacts, "That such justices of the peace shall, from and after the passing of this act, be authorized and required to hear and determine all complaints touching tithes, oblations, and compositions, substracted or withheld, where the same shall not exceed 10*l.* in amount from any one person, in all such cases, and by all such means, and subject to all such provisions and remedies, by appeal or otherwise, as contained in the said act of King William, touching small tithes, oblations, and compositions not exceeding 40s.: provided nevertheless, that, from and after the passing of this act, one justice of the peace shall be competent to receive the original complaint, and to summon the parties to appear before two or more justices of the peace, as in the said act is set forth."

Justices of peace may determine complaints respecting tithes not exceeding 10*l.*

Sect. 5. "That, from and after the passing of this act, no action shall be brought for the recovery of any penalty for the not setting out tithes, nor any action instituted in any court of equity, or in any ecclesiastical court, to recover the value of any tithes, unless such action shall be brought or such suit commenced within six years from the time when such tithes became due."

Limitation of actions respecting tithes.

By the 7 Geo. IV. c. 15, intituled 'An Act to amend an Act passed in the 14th and Seventh Years of the Reign of King William the Third, for the more easy Recovery of small Tithes,' reciting the 6 & 7 Wil. III. c. 6, s. 1, and the 53 Geo. III. c. 127, s. 4, and that it is expedient, in certain cases, to alter and amend that part of the said recited act of King William the Third, which relates to the jurisdiction before which the said tithes shall be recovered, and enacted, "that from and after the passing of this act, it shall and may be lawful, in all cities, towns corporate, or other towns or places in England, Wales, or Berwick-upon-Tweed, where the justices of the peace in and for the same are patrons of the said church or chapel, where any tithes or offerings do or shall arise, for two justices of the peace in and for any adjoining county, city, or division, to hear and determine all complaints for withholding the said tithes and offerings not exceeding the amount of 10*l.*; such complaint to be made in writing by the said rector or vicar, or other person, his attorney, or agent."

7 Geo. 4, c. 15.

In places where justices are patrons of church, tithes to be recovered before justices of any adjoining county.

(a) See other provisions of this act, title Church, Vol. I. p. 628, 630.

**DUE FROM
QUAKERS.**

How far recited
act repealed.
7 & 8 Geo. 4, c.
17.
Costs of distresses.

Sect. 2. And, "that nothing in this act shall be construed to repeal or alter any of the clauses or provisions of the said recited acts, or either of them, save and except as to such parts thereof as are expressly altered or amended by the same."

By the 7 & 8 Geo. IV. c. 17, the provisions of the 57 Geo. III. c. 93, relative to the costs of small distresses, are extended to distresses for tithes. See Vol. I. p. 630.

II. Summary Remedy for Tithes and other Church-Rates and Payments due from Quakers only.

7 & 8 Wil. 3, c.
34.
Complaint.

By the 7 & 8 Wil. III. c. 34, s. 4, it is enacted, that where any Quaker shall refuse to pay or compound for any tithes, or to pay any church-rates (or by the 1 Geo. I. st. 2, c. 6, s. 2, for any customary or other rights, dues, or payments belonging to any church or chapel, which of right by law and custom ought to be paid for the stipend or maintenance of any minister or curate officiating in any church or chapel), any parson, vicar, curate, farmer, or proprietor of such tithes, or any churchwarden or chapelwarden, or other person who ought to have, receive, or collect any such tithes, rates, dues, or payments, may make complaint (a) to any two justices, other than such as is parson of the church or chapel, or any way interested in the tithes.

Summons.

Upon which complaint the said justices shall summon (b) in writing, under their hands and seals, by reasonable warning, such Quaker. (And by the 53 Geo. III. c. 127, s. 6, it is provided, that one justice of the peace shall be competent to receive the original complaint, and to summon the parties to appear before two or more justices of the peace, as in the said act is set forth.)

Hearing.

And after appearance, or on default of appearance (the warning or summons being proved before them upon oath), they may proceed to examine on oath (or in such manner as by this act is provided) the truth of the complaint, and to ascertain and state what is due and payable.

Adjudication and costs.

And, by order (c) under their hands and seals, they may direct and appoint the payment thereof; so as the sum ordered (as is aforesaid) do not exceed 10*l*. (And by the 53 Geo. III. c. 127, s. 6, all the provisions of the said acts of Wil. III. and Geo. I. shall be deemed and taken to extend to any value not exceeding 50*l*.) And also such costs and charges as they shall think reasonable, not exceeding 10*s*.

Distress and sale.

And, on refusal to pay, it shall be lawful for any one of the *next* two justices, by warrant (d) under his hand and seal, to levy the same by distress and sale of the goods of such offender, his executors or administrators, rendering the overplus, the necessary charges of distraining being thereout first deducted and allowed by the said justice: unless it be in the case of appeal, and then no warrant of distress shall be granted till after the appeal shall be determined.

Therefore, it seemeth best not to make out, at least not to execute, the warrant of distress, until after the next sessions.

Note again: here is no time limited for detaining the distress, nor charge allowed for the keeping of it; so that it may be sold immediately.

27 Geo. 3, c. 20.

And by the 27 Geo. II. c. 20, which, in all other cases, gives the justice power, in their warrant of distress, to order the goods distrained to be detained for a certain time, not less than four days, the *tithes* and *church-rates* of Quakers (although not those other dues and payments above mentioned) are excepted.

7 & 8 Wil. 3, c.
67.

Also, it is observable here, that the 7 & 8 Wil. III. c. 67, limits the proceeding to the two *next* justices (not interested); and the statute of the 1 Geo. enacts the same to *any* two justices (not interested) as to the complaint, summons, and order, but restrains the *distress* to the limitations in the statute of the 7 & 8:

(a) See Form (No. 6), *post*.

(b) See Form (No. 7), *post*.

(c) See Form (No. 8), *post*.

(d) See Form (No. 9), *post*.

Wil.,—that is, to one of the two *next* justices as aforesaid; which possibly may have been an oversight, for it may happen hereupon that neither of the two justices which made the order can enforce the execution of it by distress. To prevent which inconvenience, it may be proper that *one* at least of the justices complained to be one of the two next justices (not interested).

Now, however, by the 7 Geo. IV. c. 15, *ante*, p. 931, in places where justices are interested as patrons of the church, the tithes may be recovered before justices of any adjoining county.

Sect. 7. Any person aggrieved by the judgment of the two justices may appeal to the next sessions; where, if the judgment shall be affirmed, they shall decree the same by order of sessions, and give costs against the appellant, to be levied by distress and sale, as to them shall seem reasonable.

And no proceedings herein shall be removed by *certiorari*, or otherwise, unless the title of such tithes shall be in question. *Appeal.* *Certiorari.*

An order of two justices was made against three persons, being Quakers, for the payment of certain customary payments, called *chapel salary*, to the Rev. Mr. Smith, curate of the chapel of Burnside, in Westmoreland, where the said Quakers had estates chargeable with the said payments. On appeal to the sessions, the order was confirmed. The Quakers moved for a *certiorari*, and though cause was shown against the issuing of it, yet a *certiorari* was granted; and the return was filed, and exceptions were taken to it, and argued at the bar. Lord Mansfield, C. J., delivered the opinion of the court; "That the *certiorari* ought not to have issued at all; that the return should be taken off the file, and all proceedings thereon fall to the ground; and that the orders of the justices and sessions should be remanded. The order of the justices (he observed) was made on the 1 Geo. I. st. 2, c. 6, which extends the 7 & 8 Wil. c. 34, concerning tithes, to all customary payments due to clergymen. Those two acts are to be taken together as one law. They were intended for the benefit of the Quakers; to prevent their being liable to expensive suits for refusing to pay tithes upon scruples of conscience, by giving an apparent compulsory method of levying tithes and other customary payments in a summary way. This proceeding cannot be removed by *certiorari*, unless the title to these customary payments comes in question; and on this proviso the present question arises. The affidavits read on the original motion for the *certiorari* set forth, that before the justices and the sessions the defendants controverted the right of the curate to these customary payments. The affidavits against the *certiorari* say, that these payments have been made from time immemorial; that no inhabitant ever disputed it but these Quakers; that they have enjoyed the messuages but a few years; and that the former inhabitants never disputed the right of the parson. Taking these affidavits together, it is clear that the Quakers controvert the right to the customary only, as all Quakers controvert the payment of all dues to all clergymen upon scruples of conscience, which is the case directly within the act, and the proceeding must therefore follow the directions of the act. The Quakers themselves have acknowledged the jurisdiction of the justices by appealing to the sessions; whereas, had they intended to dispute the title to these customary payments, they would at first have removed the order of two justices by *certiorari*. The only difficulty remaining arises from the return being already filed. But there are several instances of this court superseding a *certiorari* after the return filed; where an order of justices is removed, and it appears, upon the return, that the parties had a right to appeal to the sessions, and that the time for appealing was not expired when the *certiorari* issued; in such case, this court supercedes the writ of *certiorari*, *quia improvidè emanavit*. The same must be done in the present case." *R. v. Roger Wakefield and others*, H. T., 31 Geo. II.

As to the recovery of church or chapel rates from Quakers and others, to a certain amount, see the 53 Geo. III. c. 127, Vol. I. p. 630. *Church rates.*

As to costs of distresses, see the 7 & 8 Geo. IV. c. 17; Vol. I. p. 630. *Costs of distresses.*

FORMS.

III. Of Contempts for Tithes in the Spiritual Court.

Contempt of process.

By the 27 Hen. VIII. c. 20, s. 1, if the ecclesiastical judge shall, for any contempt, contumacy, disobedience, or other misdemeanor of any defendant in the case of tithes, make information and request to the justices of the peace of the shire where the offender dwelleth, to assist him to order and reform any such person, two of the said justices (one being of the quorum), may cause the person to be attached, and commit him to ward, till he shall have found sufficient surety, to be bound to the king by recognizance or otherwise, to give obedience to the due process, proceedings, decrees, and sentences of the ecclesiastical court where the suit shall be.

Contempt after judgment.

And by the 32 Hen. VIII. c. 7, s. 4, if any person, after sentence definitive given against him in the ecclesiastical court, shall obstinately and wilfully refuse to pay his tithes, or duties, or sums of money adjudged for the same, two justices (one being of the quorum), may, upon information, certificate, or complaint in writing, by the ecclesiastical judge, cause the party refusing to be attached and committed to the next gaol, till he shall have found sufficient sureties, by recognizance or otherwise, to perform the said definite sentence and judgment.

See the 53 Geo. III. c. 127, *ante*, 931; Vol. I. p. 928.

The remedy against contumacious persons, under the above statute of the 27 Hen. VIII., is not taken away by the 7 & 8 Wil. III. c. 34. *R. v. Sanchez*, 1 *Ld. Raym.* 323.

IV. Forms, List of.

COMPLAINT for Tithes due from any Person on the 7 & 8 Wil. III. c. 6, and 53 Geo. III. c. 127, s. 4 (No. 1.)

SUMMONS thereon (No. 2.)

ORDER thereon for Payment of Tithes (No. 3.)

The like in another Form (No. 4.)

WARRANT of Distress thereon (No. 5.)

COMPLAINT for Quaker's Tithes on the 7 & 8 Wil. III. c. 34; 1 Geo. I. s. 1 c. 6; and 53 Geo. III. c. 127 (No. 6.)

SUMMONS thereon (No. 7.)

ORDER thereon (No. 8.)

WARRANT of Distress thereon (No. 9.)

(No. 1.)

Complaint for
tithes due from
any person, on
7 & 8 Wil. 3, c. 6,
ss. 1, 6, and
53 Geo. 3, c. 127,
s. 4. (a)

To J. P., Esq., one [or, J. P. and K. P., Esqs., two] of his majesty's justice of the peace in and for the county of
A. I., of _____, in the said county, clerk, complaineth, that he, the said A. I., did, by the space of twenty days and upwards, before the day of the said _____, in the parish of _____, in the county aforesaid, [farmer], the tithes [or, compositions for the tithes,] offerings, oblations, and obventions, justly become due, within two years now last past, from the said A. O., unto him, the said A. I., to the value of _____; and that the said A. O. did, upon the said demand, refuse, and doth yet refuse, to pay, and hath not paid the same, nor any part thereof. The said complainant, therefore, prayeth such redress in the premises as to you shall seem meet, and as to the law doth appertain. Signed, the _____ day of _____, 18____

(No. 2.)

Summons
thereon.

_____ } To the Constable of _____, and others whom this may concern
Whereas complaint in writing hath been made unto me, J. P., one [or, us, J.P.]

(a) See *ante*, p. 928, 931.

and K. P., two] of his majesty's justices of the peace in and for the said county, by A. I., of, &c., in the said county, clerk, that A. O., of, &c., in the said county, [farmer], hath, for above the space of [twenty days] before the time of the said complaint so made unto me [or, us], as aforesaid, refused to pay unto the said A. I., and hath not yet paid, the tithes [or, compositions for the tithes], offerings, oblations, and obventions, arising in the said parish of _____, justly due from the said A. O. to the said A. I. These are therefore to command you forthwith, upon sight hereof, to summon the said A. O. to appear before me [or, us], and such other of his majesty's justices of the peace for the said county as may be present, at _____, on _____, the _____ day of _____, at the hour of _____ in the forenoon of the same day, to answer unto the said complaint. And be you then there to certify what you shall have done in the premises. Given under my hand and seal [or, our hands and seals], at _____, in the said county, the _____ day of, &c.

(No. 3.)

_____ } Whereas complaint in writing hath been made unto us, J. P. and K. P., Order thereon
 } Esqs., two [or, me, J. P., Esq., one] of his majesty's justices of the peace for payment of
 in and for the said county, by A. I., [vicar] of the parish of _____, in the tithes, &c.
 said county, that A. O., of, &c., in the county aforesaid, [farmer], did refuse, for the
 space of twenty days next before the time of the said complaint so made unto us,
 as aforesaid, to pay the tithes [or, compositions for the tithes], offerings, oblations,
 and obventions, arising in the said parish, and justly due from the said A. O. to the
 said A. I. We, therefore, the said justices, being neither of us patron of the parish
 church [or, chapel] of _____ aforesaid, nor any ways interested in any of the
 said tithes, [compositions], offerings, oblations, or obventions, having duly summoned
 the said A. O. before us, and having duly examined the truth and justice of the said
 complaint upon oath, do find that there is justly due from the said A. O. to the said
 A. I. the sum of _____, being the value of the said tithes [or, compositions
 for the said tithes], offerings, oblations, and obventions, which have become due within
 two years last past; and do therefore adjudge and order the aforesaid A. O. to pay,
 or cause to be paid, unto the said A. I. the aforesaid sum of _____, and also
 the sum of [10s.] for the costs and charges of the said A. I. in prosecuting the said
 A. O. for the recovery of his said just dues. Given under our hands and seals, at,
 &c., in the said county, the _____ day of, &c.

(No. 4.)

_____ } Whereas, on the _____ day of _____, complaint in writing was The like in
 } made unto J. P., one of his majesty's justices of the peace for the said another form.
 county, by J. T., of, &c., [gentleman], lessee of the rector of the said parish of _____
 , that C. D., of, &c., has failed in the true payment of the composition made
 with him for [or, did unduly subtract and detain, as the case may be] tithes of
 hay, agistment, milk], and also [as the case may be], which became due and pay-
 able within two years then last past, and before and on the _____ day of, &c., last,
 from the said C. D. to the said J. T., as lessee, as aforesaid, and demanded from the
 said C. D. by the space of twenty days before the making of the said complaint [when
 a composition had been made, add, and that the said J. T. had not compounded or
 paid for the said tithes (as before), or any part thereof]; whereupon the said justice
 granted a summons in writing, under his hand and seal, setting forth the said com-
 plaint, and required the said C. D. to appear before such two justices of the peace for
 the said county as should be assembled, at, &c., in the same county, on, &c., at [ten]
 o'clock in the forenoon, to answer to the said complaint [when the party appeared,
 did, and the said C. D., having attended in pursuance of the said summons]. Now
 we, two justices, A. B. and C. D., respectively being justices of our said lord the king,
 assigned to keep the peace in and for the said county, being so assembled at, &c.,
 aforesaid, and being neither of us patron of the parish church of, &c., aforesaid, nor
 any ways interested in the said tithes, dues, and oblations, having duly examined the
 truth of the said complaint upon oath, and having heard the said C. D. in his defence
 or, where the party has not appeared, and the said C. D. not having appeared be-
 fore us, in pursuance of the said summons, and the due service thereof having been duly
 proved on oath before us, do find and determine that there is justly due from the said
 C. D. to the said J. T., as lessee as aforesaid, the sum of _____, as a reason-
 able compensation for the said tithes of [hay, agistment, &c. as the case may be],

FORMS.

become due and payable within two years from the time of making the said complaint; that is to say, on the said, &c.; and we do therefore adjudge and order the said C. D. to pay, or cause to be paid, unto the said J. T. the aforesaid sum of , and also the sum of , for his costs and charges in making and presenting the said complaint. Given under our hands and seals, at, &c., in the said county, the day of, &c.

(No. 5.)

WARRANT of distress thereon.

To the Constable of , in the said county, and to the Churchwardens of the parish of , in the said county, and to every of them, and all others whom this may concern.

Whereas, upon the complaint in writing of A. I., [vicar] of the parish of aforesaid, in the county aforesaid, A. O., of, &c., in the county aforesaid, [farmer], hath been duly summoned to appear before us, J. P. and K. P., Esqs., two of his majesty's justices of the peace in and for the said county, to be examined for the non-payment of the tithes [or, compositions for the tithes], offerings, oblations, and obventions, due unto the said A. I.; and whereas we, the said justices, being neither of us patron of the parish church [or, chapel] of aforesaid, nor any way interested in any of the said tithes, [compositions], offerings, oblations, or obventions, have duly examined the truth and justice of the said complaint, and have ordered the said A. O. to pay unto the said A. I. the sum of , being the value of the said tithes, [compositions], offerings, oblations, and obventions, which have become due from the said A. O. to the said A. I. within [two years] next before the said complaint so made unto us, as aforesaid, together with the sum of [15s.] for the costs and charges of the said A. I., for the recovery of his said just dues; and said sums make in the whole the sum of . And whereas it appeared unto us, the said justices, that the said A. O. had due notice of our said order for the space of [ten days] and upwards before the day of the date hereof, but hath refused to pay, and hath not yet paid, the said sum of , nor any part thereof; then are therefore to command you jointly and severally that you, or some or one of you, in forthwith distrain the goods and chattels of the said A. O.; and, in case the said sum of , together with your reasonable charges of making and detaining the said distress, be not paid, or tendered to be paid, by the said A. O. in days (a) next after such distress made, that then you do make public sale of the said goods and chattels so distrained, as aforesaid, and, out of the money arising from such sale, that you pay, or cause to be paid, unto the said A. I. the said sum of , and thereout also deduct and detain your reasonable charges of making, keeping, and selling the said distress; (b) and if any overplus shall remain after such payment and deduction, as aforesaid, that then you do render the same unto him, the said A. O., upon demand. Given under our hands and seals, at, &c., in the said county, the day of, &c.

(No. 6.)

Complaint for Quakers' tithes on 7 & 8 Wil. 3, c. 34, 1 Geo. 1, st. 2, c. 6, and 53 Geo. 3, c. 127. (c)

To J. P., Esq., one [or, J. P. and K. P., Esqs., two] of his majesty's justices of the peace in and for the county of A. I., [vicar or rector] of the parish church of , in the said county, complaineth,

That A. O., of, &c., in the county aforesaid, [farmer], being a person commonly called a Quaker, hath refused to pay unto the said A. I., or to compound for, the tithes and other rights, dues, and payments, belonging to the church of aforesaid, and justly due to the said A. I. from the said A. O. The said complainant therefore prayeth such redress in the premises as to you shall seem meet, and as to him doth appertain. Signed, the day of, &c.

(No. 7.)

Summons thereon.

To the Constable of , in the said county, and others whom this may concern.

Whereas A. I., [clerk, vicar, or rector] of the parish church of

(a) See the act, ante, p. 928, 929.

(c) See ante, p. 932.

(b) See ante, p. 929.

the said county, hath complained unto me, J. P., Esq., one [or, us, J. P. and K. P., Esqs., two] of his majesty's justices of the peace in and for the said county, that A. O., of, &c., in the county aforesaid, [farmer], being a person commonly called a Quaker, hath refused to pay unto the said A. I., or to compound for, the tithes and other rights, dues, and payments belonging to the church of aforesaid, and justly due to the said A. I. from the said A. O.: these are therefore to require you forthwith to summon the said A. O. to appear before me [or, us], and such other of his majesty's justices of the peace in and for the said county as may be present, at _____, in the said county, on _____, the _____ day of _____, at the hour of _____ in the forenoon of the same day, to answer unto the said complaint. And be you then there to certify what you shall have done in the premises. Given under my hand and seal [or, our hands and seals], at, &c., in the said county, the _____ day of, &c.

(No. 8.)

_____ } Whereas complaint hath been made unto me, J. P., Esq., one [or, us, J. P. and K. P., Esqs., two] of his majesty's justices of the peace in and for the said county, by A. I., [vicar or rector] of the parish of _____, in the said county, that A. O., of, &c., in the county aforesaid, [farmer], being a person commonly called a Quaker, hath refused to pay to or to compound with the said A. I. for his tithes and other rights, dues, and payments, belonging to the church of aforesaid, and justly due unto the said A. I.: we, therefore, the said justices, being neither of us patron of the parish church of aforesaid, nor any way interested in any of the said tithes, rights, dues, or other payments, having duly summoned the said A. O. before us, and having also duly examined the truth of the said complaint upon oath, do find that there is justly due for the same from the said A. O. to the said A. I. the sum of _____, and do order and appoint the aforesaid A. O. to pay or cause to be paid unto the said A. I. the aforesaid sum of _____; and we do also order and appoint the aforesaid A. O. to pay or cause to be paid unto him, the said A. I., the further sum of [15s.] for such costs and charges concerning the premises as upon the merits of the cause do appear to us just and reasonable, and which said sums make together the sum of _____. Given under our hands and seals, at _____, in the said county, the _____ day of, &c.

(No. 9.)

_____ } To the Constable of _____, and others whom this may concern. Warrant of distress thereon,
Whereas, upon the complaint of A. I., [vicar or rector] of the parish church of _____, in the said county, A. O., of, &c., in the county aforesaid, [farmer], being a person commonly called a Quaker, hath been duly summoned to appear before J. P. and K. P., Esqs., two of his majesty's justices of the peace in and for the said county, to be examined for non-payment of his tithes and other rights, dues, and payments, belonging to the church of aforesaid, due from the said A. O. unto the said A. I.; and whereas the said justices, upon examination thereof, by writing under their hands and seals, have ordered the said A. O. to pay unto the said A. I. the sum of _____, for such his tithes and other rights, dues, and payments, as aforesaid, and moreover the sum of [15s.] for the charges of the said A. I. in recovering the same, which said sums make together the sum of _____; and whereas it appeareth unto me, J. P., Esq., being one of the said justices, and also being one of the two next justices to the parish church of aforesaid, in the county aforesaid, not being patron of the said church, nor any way interested in any of the said tithes or other rights, dues, or payments, that the said A. O. hath had due notice of the said order, but hath refused and doth refuse to pay, and hath not paid, the said sum of _____, nor any part thereof: these are, therefore, to authorize and command you, that you do forthwith levy the aforesaid sum of _____, by distress and sale of the goods and chattels of the said A. O., and, out of the money arising from such sale, that you do pay or cause to be paid unto the said A. I. the said sum of _____, and thereout also deduct your necessary charges of distraining; (a) and if any overplus shall remain after such payment and deduction, as aforesaid, that you do render the same unto the said A. O. Given under my hand and seal, at _____, in the said county, the _____ day of, &c.

(a) See ante, p. 932.

Title-Deeds, Stealing of,—see **Larceny**, Vol. III. p. 533, 568.

Tobacco.

[12 Car. II. c. 34; 22 & 23 Car. II. c. 26.]

Planting tobacco. BY the 12 Car. II. c. 34, s. 1, no person shall plant any tobacco, on pain of forfeiting the same, or the value thereof, or 40s. for every rod or pole of ground planted with it; half to the king and half to him that shall sue in any court of record. (a)

Justices of the peace are to command all constables, &c., to make a return to them of what tobacco is planted, and upon whose land.

And by the 22 & 23 Car. II. c. 26, s. 2. (which by the 5 Geo. I. c. 11, is continued along with the act of tonnage and poundage of the 12 Car. II. c. 4), it is enacted, that "all justices of the peace, within their several limits and jurisdictions, shall and do, a month before every general quarter-sessions to be holden for their respective counties, issue forth their warrants to all high constables, petty constables, and tithingmen within their several limits, thereby requiring the said high constables, petty constables, and tithingmen, and every of them, to make diligent search and inquisition, what tobacco is then sown, set, planted, growing, curing, cured, or made, within their several and respective limits and jurisdictions, and by whom; and to make a true and lawful presentment in writing upon oath, at the next general quarter-sessions to be holden for such county, of the names of all such persons as have sown, set, planted, cured, or made, any tobacco, and what the full quantity of land is or was sown, set, or planted therewith, and who are the immediate tenant or tenants, or present occupiers of the land so sown, set, or planted, who are and shall be deemed planters thereof to all intents and purposes."

Which presentment, being filed, shall be a sufficient conviction.

Except upon notice it shall be traversed.

Sec. 3. "Which said presentment upon oath shall be received and filed by the clerk of the peace of the said county in open sessions, and, after such receipt and filing, shall be a sufficient conviction in law, to all intents and purposes, of all such persons as shall be so presented for the sowing, setting, planting, improving to grow, making, or curing tobacco, either in seed, plant, leaf, or otherwise, contrary to the said recited acts, or either of them, unless such person or persons so presented (having notice given to him or them of such presentment made, by the delivery of a copy of such presentment to him or them, or by leaving a copy of such presentment at his or their dwelling-house or houses, or usual place of abode, in the presence of one or more credible witnesses, ten days at the least before the next quarter-sessions) shall, at the quarter-sessions next after such notice shall be given to him or them, traverse such presentment, and find sufficient sureties for the prosecuting and trying such traverse, at the quarter-sessions to be holden for the said county next after such traverse shall be entered or made."

Power given to all officers, &c., to pull up and destroy all the plants, &c.

Sec. 4. "That all constables, tithingmen, bailiffs, and other public officers shall and do, within their respective jurisdictions, from time to time, as often as occasion shall require, within fourteen days after warrant from two or more of the justices of the peace within such county, town, city, or place, to them calling to their assistance such person or persons as they and every one of them shall find convenient and necessary, pluck up, burn, consume, tear in pieces and utterly destroy all tobacco seed, plant, leaf, planted, sowed, or growing in any field, earth, or ground."

The penalty of officers not doing their duty in destroying of it.

Sec. 5. "If any such tobacco shall be suffered or permitted to grow, or consumed in seed, plant, or leaf, in any township, tithing, parish, hamlet, or place, by the space of fourteen days after the receipt of such warrant or order"

(a) The 6 Geo. IV. c. 105, repeals so much of the 15 Car. II. c. 7, as hath then remained unrepealed.

rants, by the said constables, tithingmen, bailiffs, or other public officers of the respective townships, tithings, parishes, or hamlets as aforesaid; that then such constables, tithingmen, bailiffs, or other public officers respectively, shall, for every such offence, forfeit and pay the sum of 5*s.* for every rod, perch, or pole of ground so set, planted, or sowed with tobacco, and so proportionably for a greater or lesser quantity of ground; the one moiety thereof to the king's majesty, and the other moiety to him or them that shall sue for the same, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster."

22 & 23 Car. 2,
c. 28.

Sect. 6. "That in case any person or persons shall refuse or neglect to aid or assist (being thereunto required) any constable, bailiff, or other public officer, in the due execution of this act, that every such person or persons for every such offence, upon conviction thereof made before two justices of the peace of the said county where such offence shall be committed, shall forfeit and pay the sum of 5*s.*, to be levied by warrant from the said justices, by distress and sale of the offender's goods; and, in case no distress can be found, then every such offender shall be committed to the common gaol of the said county, there to remain for the space of one week, without bail or mainprize."

The penalty for refusing to assist the officers.

Sect. 7. "And if any person or persons whatsoever shall forcibly resist any constable, bailiff, or other public officer, or other person or persons whatsoever, in the due execution of this act, that then every such person, for every such offence, upon conviction thereof made before two justices of the peace of the said county where such offence shall be committed, shall forfeit and pay the sum of 5*l.*, to be levied by warrant from the said justices, by distress and sale of the offender's goods; and in case no distress can be found, then every such offender shall be committed to the common gaol of the said county, there to remain for the space of three months, without bail or mainprize."

The forfeiture for resisting the officers.

Sect. 9. "Provided, that this act, nor anything therein contained, shall extend to the hindering of the planting of tobacco in any physic garden of either University, or in any other private garden for physic or chirurgery only, so as the quantity so planted exceed not one-half of one pole in any one place or garden."

+ *Sic* in act.
A saving for tobacco planted in the physic gardens.

Torn.

See *Text*, Vol. III.

[9 Hen. III. c. 35; Magna Charta, c. 17; 52 Hen. III. c. 10; 13 Edw. I. c. 13; 1 Edw. III. c. 17; 31 Edw. III. st. 1, c. 15; 1 Edw. IV. c. 2.]

THE sheriff's torn is the king's court of record holden before the sheriff, for the redressing of common grievances within the county. 2 *Haw.* c. 10, s. 2.

Torn, what.

And forasmuch as the sheriff did go in the circuit twice every year throughout every hundred within the county, it was called *tour* or *tourn*, which signifieth a circuit or perambulation. 2 *Inst.* 70.

Meaning of the word.

By the 31 Edw. III. st. 1, c. 15, the sheriff shall make his turn yearly, once within a month after Easter, and another time within a month after Michaelmas; and if he holds it in other manner, he shall lose his turn for the time: that is, the court so holden for that time shall be void, and the sheriff shall lose the profit thereof. 2 *Inst.* 71.

When to be holden.

And by the 9 Hen. III. c. 35, he shall keep his turn nowhere but in due place and accustomed.

Where to be holden.

By the statute of *Marlbridge*, 52 Hen. III. c. 10, archbishops, bishops, earls, barons, men of religion, or women, shall not need to come to the sheriff's turn, unless their presence be specially required for some cause; and if any have tenements in divers hundreds, they shall not need to come to the turn but in the bailiwicks where they dwell. See 2 *Haw.* c. 10, s. 11.

Who need not appear at the torn.

FORM.	Tenants in ancient demesne are privileged by the common law from coming to this court, unless they and their ancestors have time out of mind used to come to it. Also, parsons of churches have the like privilege by the common law. 2 <i>Haw. c. 10, s. 11.</i>
Who are to appear at the torn.	But all other persons, being above the age of twelve years, are bound to attend at such courts, in order to make inquiry of all common grievances, and also give security to the public for their good behaviour, by taking an oath to be faithful to the king, and to observe his laws, and also by incorporating themselves into some free pledge or tithing, which formerly signified a certain number of families living together in the same precinct, the masters whereof were every one of them mutually bound for each other, and punishable for the default of any member of any such family in not appearing to answer for himself on any accusation made against him. 2 <i>Haw. c. 10, s. 2.</i>
Jurors.	The 6 Geo. IV. c. 30, repeals the 1 Rich. III. c. 4, relating to jurors. If the defendant except not to an unqualified juror upon his arraignment, he is concluded by that omission. 2 <i>Hale, 70.</i>
Indictments to be indented.	By the 13 Edw. I. st. 2, c. 13, the jury shall put their seals to their indictments. By the 1 Edw. III. c. 17, indictments in the torn shall be by roll indented, one part to remain with the indictors, and the other with him that takes the inquest.
Distress and sale.	It seems to be settled at this day, that a distress is incident of common right to every fine and amerciamment in the torn; and that the offender's goods may be distrained in any lands within the precinct of the court, or in the highway; and that the goods distrained may be sold. But the bailiff must have a special warrant to make distress. 2 <i>Haw. c. 10, s. 25.</i>
Within what time offences are cognizable in the torn.	Or the fine may be recovered by action of debt. <i>Id. s. 31.</i> But no offence is cognizable in the torn, unless it arise since the holding of the last court. <i>Id. s. 50.</i>
Traverse.	It seems to be agreed, that a presentment in the torn of any offence within the jurisdiction of the court, being neither capital nor concerning any freehold, subjects the party to a fine or amerciamment, without any traverse. <i>Id. s. 76.</i>
Indictment to be certified to the sessions.	By <i>Magna Charta</i> , 9 Hen. III. c. 17, the sheriff is restrained in his torn from hearing and determining indictments of felonies; yet the sheriffs did commonly make out process or precepts in nature of a <i>capias</i> to arrest the parties; but, by 1 Edw. IV. c. 2, their power of making out process upon these indictments is taken away as well in cases of indictments of felony as other misdemeanors within their cognizance; but they are to deliver all such indictments and presentments to the next sessions, who are to make out process thereupon, and hear and determine them. 2 <i>Hale, 71.</i>
Constables chosen in the torn.	And the estreats of the fines thereupon shall be enrolled, and by indenture be delivered to the sheriff, to the use of him that was sheriff at the time of the indictment so taken in the torn as aforesaid.
	The constables of common right are to be chosen and sworn in the torn or leet. 2 <i>Haw. c. 10, s. 37.</i> See title <i>Leet</i> , Vol. III.

Trade. See *Malicious Injuries to Property*, Vol. III. p. 727, 729; *Manufactures*, Vol. III.; *Linens*, Vol. III.; *Woollen, post*; *Silk, ante*; *Servants, ante*.

Transportation.

See *Judgment*, Vol. III.

TRANSPORTATION, or exile, is generally regarded as next to death in the scale of punishment, though, perhaps, it amounts to scarcely any punishment at all, in the estimation of many of those criminals who actually endure it. It was altogether unknown as a penalty to the common law of England. 2 *H. Bla.* 223; 3 *P. Wms.* 38; 1 *Bla. Com.* 137. The only case in which it arose seems to have been that of abjuration, where the party accused fled to a sanctuary, confessed his crime, and took an oath to leave the kingdom at the port assigned him, and never to return without permission of his majesty. 4 *Bla. Com.* 833. This was evidently not a punishment, but a condition of pardon, for it was expressly contended [by *Magna Charta*, that no freeman shall be banished unless by the judgment of his peers or by the law of the land. 9 *Hen.* III. st. I. c. 29.

Preliminary observations.

It appears that *exile* was first introduced as a punishment by the legislature in the thirty-ninth year of Queen Elizabeth, when a statute (39 *Eliz. c. 4*), enacted, that such rogues as were dangerous to the inferior people should be banished the realm, *Barr. Acrh. stat.* 445, (5 *Edw.*); and that the first statute in which the word *transportation* is used, is the 18 *Car. II. c. 3*, which gives a power to the judges, at their discretion, either to execute or transport to America, for life, the moss-troopers of *Cumberland* and *Northumberland*. 2 *Wood*, 498; and see 22 *Car. II. c. 5*; 22 & 23 *Car. II. c. 7*. The act 18 *Car. II.* was made perpetual by the 31 *Geo. II. c. 42*. See 1 *Comm. c. 9*, p. 137, n.

Transportation was first brought into general use as a punishment *anno* 1718, by the 4 *Geo. I. c. 11*, and continued by the 6 *Geo. I. c. 23*, which statute allowed the court a discretionary power to order felons who were by law entitled to their clergy, to be transported to the *American* plantations.

By these statutes, the persons contracting for the transportation of convicts to the colonies, or their assigns, had an interest in the service of each for seven or fourteen years, according to the term of transportation.

The principal act now in force regulating the transportation of offenders, is 5 *Geo. IV. c. 84, infra*, which revives and consolidates all the laws on the subject.

A judgment of transportation for fourteen years, if bad for excess, is bad *in toto*, and cannot operate as a judgment for seven years. *R. v. Ellis*, 8 *D. & R.* 173.

Judgment, if bad in part, bad in toto.

Where a court of quarter-sessions have passed an erroneous judgment of transportation, the Court of King's Bench will not send it back to be amended, but will reverse it, on writ of error. *Id.*

Erroneous judgment.

Where a prisoner was convicted of perjury, at the assizes at Chester, and the sentence of transportation was entered on record as follows:—"Wherefore," &c. "it is ordered that the said L. R. be transported to the coast of New South Wales, for and during the term of seven years," it was held, on error brought, that this was no judgment, but merely an order. *R. v. Kemworthy*, 1 *B. & C.* 711; 3 *D. & R.* 173, S. C.

What a mere order, and not a judgment.

By the 5 *Geo. IV. c. 84*, intituled "An Act for the Transportation of Offenders from Great Britain," after reciting that "whereas the several laws in force for regulating the transportation of offenders from Great Britain will expire at the end of the present session of Parliament; and it is expedient that the laws relative to that subject should be revised and consolidated into one act;" it is enacted, "that this act shall take effect on the last day of this present session of Parliament; and that, on and from that day, all things remaining to be done, touching the punishment, imprisonment, correction, removal, transportation, discipline, employment, diet, and clothing, of persons sentenced or ordered to transportation or banishment from any part of Great Britain, under any acts heretofore or now in force, or pardoned on condition of being transported under any such acts, shall be continued, done, and completed under the provisions of this act; and that all sentences and orders for transportation, all orders in council, and other orders, warrants, instructions, directions, appointments, authorities, contracts, and securities made, issued, or given under any of the said acts, and in force at the time of the commencement of this act, shall continue in force under and by virtue of this act, unless and until they shall be revoked and superseded."

5 *Geo. 4, c. 84*. Commencement of act under the provisions of which all persons already sentenced or ordered for transportation shall be placed.

5 Geo. 4, c. 84.

Offenders adjudged for transportation to be transported under this act.

Power for subsequent court, &c. to allow conditional pardon in cases where his majesty extends mercy to the offender.

His majesty may appoint places of transportation.

Secretary of state to authorize persons to make contracts for transportation.

Sheriffs or gaolers, on receiving orders for removal of offenders for transportation, to deliver them over to the contractor, if free from distemper.

† Sic in act.

Sec. 2. "That from and after the commencement of this act, every person convicted before any court of competent jurisdiction in Great Britain, of any offence for which he or she shall be liable to be transported or banished, shall be adjudged and ordered to be transported or banished beyond the seas, for the term of life or years for which such offender shall be liable by any law to be transported or banished; and every sentence of transportation or banishment passed or to be passed on any offender in any court of competent jurisdiction in Great Britain, and every order for transportation or banishment made or to be made in pursuance of the sentence of any such court or other competent authority, shall subject the offender to be conveyed beyond the seas under the provisions of this act: and whenever his majesty shall be pleased to extend mercy to any offender convicted of any crime for which he or she is or shall be excluded from the benefit of clergy, upon condition of transportation beyond the seas, either for the term of life, or any number of years, and such intention of mercy shall be signified by one of his majesty's principal secretaries of state to the court before which such offender hath been or shall be convicted, or any subsequent court with the like authority, such court shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender; and in case such intention of mercy shall be so signified to the judge or justice before whom such offender hath been or shall be convicted, or to any judge of his majesty's court of King's Bench or Common Pleas, or to any Baron of the Exchequer of the degree of the coif in England, such judge, justice, or baron shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender, in the same manner as if such intention of mercy had been signified to the court during the term or session in or at which such offender was convicted; and such allowance and order shall be considered as an allowance and order made by the court before which such offender was convicted, and shall be entered on the records of the same court by the proper officer thereof, and shall be as effectual, to all intents and purposes, and have the same consequences, as if such allowance and order had been made by the same court during the continuance thereof: and every such order, and also every order made by the Court of Justiciary in Scotland for the transportation of any offender, whose sentence of death shall be remitted by his majesty, shall subject the offender to be conveyed beyond the seas under the provisions of this act."

Sec. 3. "That it shall be lawful for his majesty, by and with the advice of his privy council, from time to time, to appoint any place or places beyond the seas, either within or without his majesty's dominions, to which felons and other offenders under sentence or order of transportation or banishment shall be conveyed; and that, when any offenders shall be about to be transported or banished from Great Britain, one of his majesty's principal secretaries of state shall give orders for their removal to the ship to be employed for their transportation, and shall authorize and empower some person to make a contract for their effectual transportation to some of the places so appointed, and shall direct security to be given for their effectual transportation, in the manner hereinafter mentioned."

Sec. 4. "That the sheriff or gaoler receiving such order of removal shall by virtue thereof forthwith remove every offender to whom the same shall apply, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be transported to the ship employed for his or her transportation, and there deliver every such offender to the contractor, together with a true copy, attested by such sheriff or gaoler, of the caption and order of the court by which each such offender was sentenced or ordered for transportation, containing the sentence or order of transportation of each such offender, by virtue whereof he or she shall be in the custody of such sheriff or gaoler; and also a certificate specifying concisely the description of his or her crime, his or her age, whether married or unmarried, his or her trade or profession, and an account of his or her behaviour in prison before and after trial, and the gaoler's observations on his or her temper and disposition, and such information concerning his or her connexions and former course of life as may have come to the gaoler's knowledge; and such contractor shall give a receipt in writing to the sheriff or gaoler, for the discharge of such sheriff or gaoler."

Sect. 5. "That every such contractor, with two sureties, shall, before any such offender shall be delivered to him to be transported, give security by bond to his majesty, that he will effectually transport, or cause to be transported, every offender included in his contract, to such place beyond the seas as shall be specified in the contract, and procure from the governor of the colony, or other person or persons to whom he shall be directed by one of the principal secretaries of state to deliver such offender, a certificate of the landing of such offender in that place, whereto he or she shall be ordered to be transported (death and casualties by sea excepted); and that such offender shall not be suffered to return to any part of the United Kingdom, by the wilful default of such contractor, or of any person employed by him."

5 Geo. 4, c. 84.
Persons undertaking to transport offenders to give proper security.

Sect. 6. "That if any such offender shall be guilty of misbehaviour or disorderly conduct on board of the ship in which he or she shall be transported, it shall be lawful for the surgeon or principal medical officer for the time being of such ship, to inflict or cause to be inflicted on such misbehaving or disorderly offender, such moderate punishment or correction as may be authorized by the instructions which he may receive from one of his majesty's principal secretaries of state: provided always, that no such punishment or correction shall be so inflicted, unless the master or principal officer for the time being of such ship shall first signify his approbation thereof in writing under his hand; and every such punishment or correction, together with the particulars of the offence for which the same is inflicted, and such written approbation as aforesaid, shall on the same day, in all cases, be entered by such master or principal officer as aforesaid, upon the log-book of the ship, under a penalty of 20*l.* for every neglect to make such entry, to be recovered to the use of the informer, by bill, plaint, or information in any court of record in England, or in one of the supreme courts of New South Wales, or Van Dieman's Land."

For punishment of transports misbehaving on this voyage.

Such punishment to be entered on log-book.

Sect. 7. "Provided, that whenever the transportation of any such offender shall take place in any ship belonging to his majesty, it shall be lawful for one of the principal secretaries of state, by warrant under his hand, to nominate some person or persons who shall have the custody of such offender during the voyage, and thereupon such offender may be delivered to such nominee or nominees, without any contract or security being required or given for the effectual transportation of such offender; and every such nominee shall have the like power of punishing misbehaviour and disorderly conduct in such offender during the voyage, as is hereby given to the surgeon of a ship specially employed for the transportation of offenders."

Secretary of state may give custody of offenders transported in king's ships, without security.

Sect. 8. "That so soon as any such offender shall be delivered to the governor of the colony, or other person or persons to whom the contractor, or such nominee or nominees as aforesaid, shall be so directed to deliver him or her, he property in the service of such offender shall be vested in the governor of the colony for the time being, or in such other person or persons; and it shall be lawful for the governor for the time being, and for such other person or persons, whenever he or they shall think fit to assign any such offender to any other person for the then residue of his or her term of transportation, and for such assignee to assign over such offender, and so as often as may be thought fit; and the property in the service of such offender shall continue in the governor for the time being, or in such other person or persons as aforesaid, or his or their assigns, during the whole remaining term of life or years for which such offender was sentenced or ordered to be transported: provided always, that for the purposes of this act, every person administering the government of a colony, by whatever name or title he may be denominated, shall be deemed to be the governor thereof."

Governor of the colony, &c. to have property in service of offender.

What persons deemed governors.

Sect. 9. "Provided, that nothing in this act contained shall in any manner affect his majesty's royal prerogative of mercy."

King's prerogative.

Sect. 10. "That it shall be lawful for his majesty, from time to time, by warrant under his royal sign manual, to appoint places of confinement within England and Wales, either at land or on board vessels to be provided by his majesty in the river Thames, or some other river, or within the limits of some port or harbour of England or Wales, for the confinement of male offenders after sentence or order of transportation, which shall be under the management

His majesty to appoint places of confinement of offenders in England.

**5 Geo. 4, c. 84.
Order of removal.**

**Duty of sheriff
and gaoler
thereon.**

**Appointment by
his majesty of
superintendent of
places of confine-
ment, &c.**

His duty.

**Report of state of
such places to
secretary of state.**

**Regulations for
cleansing and
purifying and
clothing offenders;**

of a superintendent and overseer to be appointed by his majesty; and that it shall be lawful for one of his majesty's principal secretaries of state to direct the removal of any male offender who shall be under sentence of death, but who shall be reprieved, or whose sentence shall be respited during his majesty's pleasure, or who shall be under sentence or order of transportation, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed to the gaol or prison in which such offender shall be confined, to any of the places of confinement so appointed; and every offender who shall be so removed shall continue in the said place of confinement, or be removed to and confined in some other such place or places as aforesaid, as one of his majesty's principal secretaries of state shall from time to time direct, until such offender shall be transported according to law, or shall become entitled to his liberty, or until one of his majesty's principal secretaries of state shall direct the return of such offender to the gaol or prison from which he shall have been removed; and the sheriff or gaoler having the custody of any offender whose removal shall be ordered in manner aforesaid, shall, with all convenient speed, after the receipt of any such order, convey or cause to be conveyed every such offender to the place appointed, and there deliver him to such superintendent or overseer, together with a true copy, attested by such sheriff or gaoler, of the caption and order of the court by which such offender was sentenced or ordered for transportation, containing the sentence or order of transportation of each such offender, by virtue whereof he shall be in the custody of such sheriff or gaoler; and also a certificate, specifying concisely the description of his crime, his age, whether married or unmarried, his trade or profession, and an account of his behaviour in prison before and after his trial, and the gaoler's observations on his temper and disposition, and such information concerning his connexions and former conduct of life as may have come to the gaoler's knowledge; and such superintendent or overseer shall give a receipt in writing to the sheriff or gaoler, for the discharge of such sheriff or gaoler."

Sect. 11. "That it shall be lawful for his majesty to appoint one fit and able person to be superintendent of the said places of confinement; and in case it shall be deemed expedient, it shall be lawful for his majesty also to appoint one fit and able person to be assistant or deputy to such superintendent, at one or more of the said places of confinement, and to be constantly resident at or near the place or places to which he shall be appointed; and also one fit and able person to be overseer of each such place of confinement, who, with a sufficient number of officers and guards, shall constantly reside therein; and such superintendent shall personally visit and inspect such places of confinement at least twice in every year, or oftener if occasion shall require, and shall distinctly examine into the state of such places of confinement, the behaviour and conduct of the respective assistants or deputies, overseers, officers, and guards, the treatment and condition of the prisoners, and the amount of the several earnings, and the expenses attending every such place of confinement, and shall at least twice in every year, make a faithful report of the same to one of his majesty's principal secretaries of state, who shall cause such report to be laid before both houses of Parliament at the beginning of every session; and such superintendent shall distinguish in such report the amount of the earnings and expenses at each of such places of confinement, and shall state the average number of prisoners confined therein, and the number of days' labour done by such prisoners, distinguishing the work of artificers, and of any other superior labourers from that of common labourers; and such superintendent shall also, in case of extreme necessity, make a special report thereof to one of his majesty's principal secretaries of state, who may, and is hereby authorized to afford such redress, provide such regulations as he shall deem proper; and such superintendent, assistants, or deputies, and overseers, shall continue in office during his majesty's pleasure, and shall receive such salaries as one of his majesty's principal secretaries of state shall appoint; and such superintendent shall be paid such travelling and other reasonable expenses as shall be incurred by him in discharge of his duty."

Sect. 12. "That whenever any offender shall be brought to any such place

of confinement as aforesaid, in pursuance of the powers of this act, he shall be washed, cleansed, and purified, and the clothes in which he shall be then clothed shall be burned, if necessary, or otherwise shall be preserved and taken care of for him by the overseer, and re-delivered to him upon his quitting it, or sold for his benefit, and the produce thereof accounted for to him by the overseer; and when such offender shall be finally discharged, such other decent clothing, as shall be judged necessary and proper by the superintendent, shall be delivered to such offender by the overseer, and also such sum of money for his immediate subsistence as the superintendent shall think proper, so as such sum shall not in any case exceed 3*l*."

5 Geo. 4. c. 84.

Subsistence allowed on discharge.

Sect. 13. "That it shall be lawful for his majesty, by any order or orders in council, to declare his royal will and pleasure, that male offenders convicted in Great Britain, and being under sentence or order of transportation, shall be kept to labour in any part of his majesty's dominions out of England, to be named in such order or orders in council; and that whenever his majesty's will and pleasure shall be so declared in council, it shall be lawful for one of his majesty's principal secretaries of state to direct the removal and confinement of any such male offender, either at land or on board any vessel to be provided by his majesty, within the limits of any port or harbour in that part of his majesty's dominions which shall be named in such order in council, under the management of the said superintendent, and of an overseer to be appointed by his majesty for each such vessel or other place of confinement; and that every offender who shall be so removed shall continue on board the vessel or other place of confinement to be so provided, or any similar vessel or other place of confinement to be from time to time provided by his majesty, until his majesty shall otherwise direct, or until the offender shall be entitled to his liberty."

His majesty, in council, may direct convicts to be employed in any part of his dominions out of England, under management of superintendent and overseer.

Sect. 14. "That the said superintendent shall from time to time make returns, specifying the name of every person in custody in each of such places of confinement, the offence of which he shall have been guilty, the court before which he shall have been convicted, and the sentence of such court, together with his age and bodily state, and his behaviour whilst in custody; and also the names of such offenders as shall have died whilst in such custody, or shall have escaped, or have been lawfully discharged from the same; which returns shall be made on the first day of January, April, July, and October, in every year, to one of his majesty's principal secretaries of state, on the oath of the overseer of each place of confinement, such oath to be made before a justice of the peace."

Superintendent to make returns of prisoners to secretary of state, as herein mentioned.

Sect. 15. "That, after the removal of any offender under this act, the superintendent and overseer, who shall have the custody of him, shall, during the term of such custody, have the same powers over him as are incident to the office of a sheriff or gaoler, and shall in like manner be answerable for any escape of such offender; and if any offender shall, during such custody, be guilty of any misbehaviour or disorderly conduct, the superintendent or overseer shall be authorized to inflict, or cause to be inflicted on him, such moderate punishment or correction as shall be allowed by one of his majesty's principal secretaries of state; and such superintendent or overseer shall also, during such custody, see every offender fed and clothed according to a scale of diet and clothing to be fixed on, and notified in writing by one of his majesty's principal secretaries of state to the superintendent; and shall keep such offender to labour at such places, and under such regulations, directions, limitations, and restrictions, as by such secretary of state shall from time to time be prescribed; and in case of the absence of any such superintendent or overseer, or of the vacancy of his office, his duties or powers shall be discharged and exercised in all respects by the officer or person on whom the command of the place of confinement shall devolve."

Power and duties of superintendent and overseers.

Sect. 16. "That it shall be lawful for such superintendent, and he is hereby authorized, in every such place of confinement as aforesaid, either at land or on board any vessel to be provided as aforesaid, and also in every place wherein any offenders under his superintendence shall be employed to labour, to act in every respect as a justice of the peace, as if he had been named in the commission of the peace, and had been duly qualified to act as a justice of the

Superintendent empowered to act as a justice of the peace.

3 Geo. 4, c. 84.

peace for the county or place in which any such place of confinement shall be, or any such offender shall be employed to labour."

Convicts adjudged by courts out of the United Kingdom to transportation, and convicts pardoned on condition of transportation, may, when brought to England, be imprisoned and transported.

Sect. 17, after reciting that "whereas by the laws in force in some parts of his majesty's dominions not within the United Kingdom, offenders convicted of certain offences are liable to be punished by transportation beyond the seas, and other convicts adjudged to suffer death in such parts of his majesty's dominions have received, or may receive his majesty's most gracious pardon, upon condition of transportation beyond the seas, and there may be no means of transporting such convicts to any of the places appointed by his majesty in council in that behalf, without first bringing them to England;" enacts, "that whenever any convict adjudged to transportation by any court or judge in any part of his majesty's dominions not within the United Kingdom, or any convict adjudged to suffer death by any such court or judge, and pardoned on condition of transportation, have been or shall be brought to England in order to be transported, it shall and may be lawful to imprison any such offender in any place of confinement, provided under the authority of this act, until such convict shall be transported, or shall become entitled to his liberty; and that so soon as every such convict shall be so imprisoned, all the provisions, rules, regulations, clauses, authorities, powers, penalties, matters, and things aforesaid, concerning the safe custody, confinement, treatment, and transportation of any offender convicted in Great Britain, shall extend, and be construed to extend, to every convict who may have been or may be hereafter adjudged to transportation by any court or judge in any part of his majesty's dominions not within the United Kingdom, and to every convict adjudged by any such court or judge to suffer death, and pardoned on condition of transportation, and brought to England in order to be transported, as fully and effectually, to all intents and purposes, as if such convict had been convicted and sentenced at any session of gaol delivery holden for any county within England."

Convicts may be kept to hard labour, and may be removed to house of correction.

Sect. 18. "That it shall be lawful to keep to hard labour every offender under sentence or order of transportation, while he or she shall remain in the common gaol, if his or her health shall permit, and if one or more of the visiting justices of such gaol shall give a written order to that effect; and that it shall be lawful for one of his majesty's principal secretaries of state, if he shall think fit, to order that any such offender be removed from the common gaol to the house of correction, and there kept to hard labour."

Time of imprisonment deemed part of term.

Sect. 19. "That the time during which any offender shall continue in any gaol or house of correction, or in any such place of confinement as aforesaid, under sentence or order of transportation or banishment, shall be taken and reckoned in discharge, or part discharge, of the term of his or her transportation or banishment."

Offenders may be carried through any county where seaport.

Sect. 20. "That the sheriff or gaoler, and every person employed in the conveyance of any offender, in order to be transported or banished, or to be imprisoned in any such place of confinement as aforesaid, or in the reconveyance of any offender from any such place of confinement to the gaol or prison from which he was removed, may, in such manner as he shall think fit, carry and secure such offender in and through any county of Great Britain, towards the seaport or place from whence he or she is to be transported or banished, or where he or she is to be confined, or to the gaol or prison to which he or she is to be reconveyed."

Expenses of removal to be paid by county where conviction took place.

Sect. 21. "That, in England and Wales, all such fees, on the delivering out of custody of any such offender so ordered to be transported or removed, as have usually been paid to the sheriff or gaoler, and all reasonable expenses which the sheriff or gaoler shall incur in every such removal, shall be paid by the county, riding, division, city, borough, liberty, or place, for which the court in which the offender was convicted shall have been held; and the sheriff or gaoler shall receive the money due for such expenses from the treasurer of such county, riding, division, city, borough, liberty, or place; such fees and expenses being first allowed by the order of the justices of the peace at the quarter or other general sessions of the peace, who are hereby required to make such order as shall be just in that behalf; and the clerk of the court shall be paid by such treasurer the same fee as hath been usually paid, and he is hereby

Fee to clerk of the court.

fully entitled to receive for every order of transportation; and, in Scotland, all such fees and expenses shall be paid in the same manner as has been heretofore practised."

5 Geo. 4, c. 84.

Sect. 22. "That if any offender who shall have been or shall be so sentenced or ordered to be transported or banished, or who shall have agreed or shall agree to transport or banish himself or herself on certain conditions, either for life or any number of years, under the provisions of this or any former act, shall be afterwards at large within any part of his majesty's dominions, without some lawful cause, before the expiration of the term for which such offender shall have been sentenced or ordered to be transported or banished, or shall have so agreed to transport or banish himself or herself, every such offender so being at large, being thereof lawfully convicted, shall suffer death as in cases of felony without the benefit of clergy; and such offender may be tried either in the county or place where he or she shall be apprehended, or in that from whence he or she was ordered to be transported or banished; and if any person shall rescue, or attempt to rescue, or assist in rescuing or attempting to rescue, any such offender from the custody of such superintendant or overseer, or of any sheriff or gaoler, or other person conveying, removing, transporting, or re-conveying him or her, or shall convey, or cause to be conveyed, any disguise, instrument for effecting escape, or arms to such offender, every such offence shall be punishable in the same manner as if such offender had been confined in a gaol or prison in the custody of the sheriff or gaoler, for the crime of which such offender shall have been convicted; and whoever shall discover and prosecute to conviction any such offender so being at large within this kingdom, shall be entitled to a reward of 20*l.* for every such offender so convicted."

Offender found unduly at large before expiration of sentence.

Death.

Persons rescuing prisoners, how punished.

Prosecuting to conviction, reward 20*l.*

Sect. 23. "That in any indictment against any offender for being found at large contrary to the provisions of this or of any other act now made or hereafter to be made, and also in any indictment against any person who shall rescue, or attempt to rescue, or assist in rescuing any such offender from such custody, or who shall convey, or cause to be conveyed, any disguise, instrument for effecting escape, or arms, to any such offender, contrary to the provisions of this or of any other act now made, or hereafter to be made, whether such offender shall have been tried before any court or judge within or without the United Kingdom, or before any naval or military court-martial, it shall be sufficient to charge and allege the order made for the transportation or banishment of such offender, without charging or alleging any indictment, trial, conviction, judgment, or sentence, or any pardon, or intention of mercy, or signification thereof, of or against, or in any manner relating to such offender." (a)

Form of indictment against offenders found at large, or against persons rescuing prisoners.

Sect. 24. "That the clerk of the court, or other officer having the custody of the records of the court where such sentence or order of transportation or banishment shall have been passed or made, shall, at the request of any person on his majesty's behalf, make out and give a certificate in writing, signed by him, containing the effect and substance only (omitting the formal part) of every indictment and conviction of such offender, and of the sentence or order for his or her transportation or banishment (not taking for the same more than 6*s.* 8*d.*), which certificate shall be sufficient evidence of the conviction and sentence, or order for the transportation or banishment of such offender; and every such certificate, if made by the clerk or officer of any court in Great Britain, shall be received in evidence, upon proof of the signature and official character of the person signing the same; and every such certificate, if made by the clerk or officer of any court out of Great Britain, shall be re-

Certificate of clerk of court, of conviction and sentence, sufficient evidence.

(a) Before this provision, an indictment on stat. 56 Geo. III. c. 27, s. 8, for returning from transportation, must have set out the effect and substance of the former conviction, and so likewise the certificate of the former

conviction; and if the former conviction was stated to be for *felony*, without stating the nature of it, that was not sufficient. *R. v. Watson, R. & R., C. C. R.* 468. *Semble*, the latter points would now apply.

5 Geo. 4, c. 84.

Proviso for persons banished under 60 Geo. 3, and 1 Geo. 4, c. 8.

For protecting transported felons herein mentioned in the enjoyment of property acquired after conviction.

In actions for executing act.

General issue.

Treble costs.

In what case no costs to plaintiffs.

Limitation of actions.

Repeal of acts.

ceived in evidence, if verified by the seal of the court, or by the signature of the judge, or one of the judges of the court, without further proof."

By sect. 25, the act is not to extend to persons adjudged to be banished under the 60 Geo. III. c. 8, as to blasphemous and seditious libels. But now, by the 1 Wil. IV. c. 73, that part of the 60 Geo. III. is repealed.

Sect. 26. "And whereas it hath sometimes happened, that felons under sentence or order of transportation in New South Wales and the islands adjacent, have received from the governor or lieutenant-governor thereof remissions, either absolute or conditional, of the whole or of some part of the term of their transportation, and have by their industry acquired property, in the enjoyment whereof it is expedient to protect them; and the like may happen in future in the same colony, and in other colonies to which felons may be transported under and by virtue of this act: be it therefore enacted, that it shall and may be lawful for every felon under sentence or order of transportation, who hath received or shall receive any such remission as aforesaid from the governor or lieutenant-governor of New South Wales, or from the governor or lieutenant-governor of any other colony, who may be authorized to grant the same, while such felon shall reside in a place where he lawfully may reside under such sentence, order, or remission, and under the provisions of this act, to maintain any action or suit for the recovery of any property, real, personal, or mixed, acquired by such felon since his or her conviction, and for any damage or injury sustained by such felon since his or her conviction, not only in the courts of the colony or place where such felon shall lawfully reside, but also in the courts of this kingdom, and of all other his majesty's dominions; and if the defendant in any such action or suit shall plead or allege in his defence the plaintiff's or complainant's conviction of felony, and the plaintiff or complainant shall allege and prove that he or she hath received such remission as aforesaid, and is residing in some place consistent therewith and with the provisions of this act, a verdict shall pass, and judgment shall be given, for the plaintiff or complainant."

Sect. 27. "That if any suit or action shall be prosecuted in England, Wales, or Ireland, against any person for anything done in pursuance of this act, the defendant may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done by the authority of this act; and if a verdict shall pass for the defendant, or judgment shall in any manner be given against the plaintiff, the defendant shall recover treble costs, and have the like remedy for the same as any defendants have by law in other cases: and notwithstanding a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be had shall certify his approbation of the verdict."

Sect. 28. "That all actions, suits, and prosecutions against any person for anything done in pursuance of this act, shall be commenced within six calendar months after the fact committed, and not otherwise; and if the fact was done within the body of any county, it shall be laid and tried in that county, and no other; and if done out of the body of any county, it shall be laid and tried in the county of Middlesex, and not elsewhere."

By sect. 29, from and after the commencement of this act, so much of the 4 Geo. I. c. 11, (a) as relates to contracts and security for the transportation of offenders, and to the punishment of those who return from transportation; and so much of the 6 Geo. I. c. 23, (a) as relates to the same objects; and the 16 Geo. II. c. 15, and 8 Geo. III. c. 15; and so much of the 28 Geo. III. c. 24, as relates to the transportation of offenders, and their removal to and imprisonment in temporary places of confinement (viz. sect. 4, 5); and so much of the 31 Geo. III. c. 46, as relates to the imprisonment and employment in hard labour of prisoners sentenced to transportation (viz. sect. 7); and the 43 Geo. III. c. 15, shall be repealed.

(a) The 7 Geo. IV. c. 27, repeals the rest of these two acts, except sections: viz. the 4 Geo. I. c. 11.

By the 1 Wil. IV. c. 39, entitled "An Act to amend an Act passed in the Fifth Year of his present Majesty, for the Transportation of Offenders from Great Britain, and for punishing Offences committed by Transports kept to Labour in the Colonies," passed 16th July, 1830, reciting that, by the 5 Geo. IV. c. 84, "it is amongst other things enacted, that it shall be lawful for his majesty, by and with the advice of his Privy Council, from time to time to appoint any place or places beyond the seas, either within or without his majesty's dominions, to which felons and other offenders under sentence or order of transportation or banishment shall be conveyed; and that, when any offenders shall be about to be transported or banished from Great Britain, one of his majesty's principal secretaries of state shall give orders for their removal to the ship to be employed for their transportation, and shall authorize and empower some person to make a contract for their effectual transportation to some of the places so appointed, and shall direct security to be given for their effectual transportation, in the manner thereafter mentioned; and it is thereby further enacted, that whenever the transportation of any such offender shall take place in any ship belonging to his majesty, it shall be lawful for one of the principal secretaries of state, by warrant under his hand, to nominate some person or persons who shall have the custody of such offender during the voyage, and thereupon such offender may be delivered to such nominee or nominees, without any contract or security being required or given for the effectual transportation of such offender; and it is thereby further enacted, that so soon as any such offender shall be delivered to the governor of the colony, or other person or persons to whom the contractor or such nominee or nominees, as aforesaid shall be so directed to deliver him or her, the property in the service of such offender shall be vested in the governor of the colony for the time being, or in such other person or persons as aforesaid: and whereas divers felons and other offenders have heretofore been transported from Great Britain to his majesty's colonies of South Wales and Van Diemen's Land respectively, and in pursuance of the directions of one of the principal secretaries of state have been delivered to the governors of those respective colonies, or other persons in those colonies to whom such respective contractors or nominees as aforesaid have been so directed to deliver them; but, from divers unforeseen causes, it hath occurred that some of such offenders have been landed and put on shore, and delivered at one of the before-mentioned colonies, who ought, according to such directions as aforesaid, to have been landed and put on shore, and delivered at the other of the before-mentioned colonies: and whereas, under the licenses of the governors of the said respective colonies, divers offenders who had been transported as aforesaid, have from time to time been removed from the one to the other of the said colonies: and whereas doubts have arisen whether offenders who have been so landed, put on shore, and delivered or removed as aforesaid, can, within the respective colonies in which they are now respectively resident, be lawfully dealt with in such and the same manner as if they were respectively resident within the colony to which they were originally sentenced or ordered to be transported:" it is enacted, "that all felons and other offenders who have heretofore been transported from Great Britain to New South Wales, or to Van Diemen's Land, or to their respective dependencies, and who, having been contracted or ordered to be landed, and put on shore, and delivered in one of those colonies, have in fact been landed, and put on shore, and delivered at the other of those colonies, and that all such felons and other offenders who, under the license, or by the order or with the consent of the governor, or of the officer administering the government of either of the said colonies, have been removed from the one to the other of such colonies, shall, within the colony in which they are respectively now resident, be subject and liable to all such and the same laws, rules, and regulations as if they had been contracted or ordered on their original transportation to be delivered to the governor or the officer administering the government of such colony, and shall within the colony in which they are respectively now resident be dealt with, governed, and disposed of in all respects, in such and the same manner, as other convicts within the same colony; and that the property in the service of all such offenders shall be vested in the governor

1 Will. 4, c. 39.
Reciting 5 Geo. 4,
c. 84.

Felons ordered to be put on shore in the one colony, but put on shore in the other, and those removed from one colony to the other, subject to the same rules as other convicts in the same colony.

1 Wil. 4, c. 20.

Governor of the one colony may receive felons who are ordered to be delivered in the other colony.

Governor of one colony may remove felons to the other colony.

Convicts removed from one colony to another liable to punishment for disorderly conduct.

Convicts removed from one colony to another to be subject to the regulations of the colony to which removed.

For prohibiting the supply of spirituous liquors to offenders under sentence of transportation.

or officer administering the government of the colony in which they are actually resident, in the same manner, and subject to all such and the same rules and conditions, as if they had been contracted or ordered on their original transportation to be delivered to him."

Sec. 2. "That in any case in which a ship conveying felons or other offenders from the United Kingdom of Great Britain and Ireland, the master of which has entered into a contract or been ordered to deliver such felons or other offenders at the colony or place specified in such contract or order, shall, by stress of weather or other circumstances, convey such felons or other offenders to any other colony or place to which such offenders may legally be transported or banished, the governor or officer administering the government of such other colony or place is hereby authorized, if he shall deem it expedient, to receive and retain such felons or other offenders in the said colony or place; and the said felons or other offenders shall be subject and liable to all such and the same laws, rules, and regulations, as if they had been contracted or ordered on their original transportation to be delivered to him."

Sec. 3. "That it shall be lawful for the governor or the officer administering the government of either of the said colonies, with the concurrence of the governor or officer administering the government of the other of the said colonies, by an order in writing under his hand, to authorize the removal of any such convicts as aforesaid from the colony under his government to the other of the said colonies, and, for that purpose, to deliver any such convicts into the charge of the master of any ship or any other proper person proceeding directly to the colony to which such removal is to be made, and to contract with such master or other person for the effectual removal of such convicts to such other colony, and to take security by bond to his majesty that he will effectually remove or cause to be removed every convict included in such contract to the colony to which it is proposed so to remove him, and procure from the governor or officer administering the government of such colony a certificate of the landing of such convict there (death and casualties by sea excepted), and that such convict shall not be suffered to escape from the vessel in which he or she shall be so removed, by the wilful default of such contractor, or of any person employed by him."

Sec. 4. "That all and every the laws in force for the punishment of misbehaviour or disorderly conduct by any offender on board of any ship in which he or she may be transported from Great Britain, shall apply and extend, and are hereby extended, to every convict who, by virtue of any such order as aforesaid, shall be removed from either of the said colonies to the other of them."

Sec. 5. "That so soon as any such convict shall be delivered to the governor or to the officer administering the government of the colony to which he or she shall be so removed, such convict shall within such colony be subject and liable to all such and the same laws, rules, and regulations, as if he or she had been contracted or ordered on his or her original transportation to be delivered to the governor or the officer administering the government of such colony, and shall be there dealt with, governed, and disposed of, in all respects, in such and the same manner as other convicts within the same colony; and that the property in the service of every such convict shall be vested in the governor or officer administering the government of the colony to which he or she may be so removed, in the same manner, and subject to all such and the same rules and conditions, as if he or she had been contracted or ordered on his or her original transportation to be delivered to such governor or officer, as aforesaid."

Sec. 6. "That if any person, in contravention of the existing rules and regulations for the government of any place of confinement for male offenders under sentence or order of transportation within England or Wales, or in any part of his majesty's dominions out of England, shall carry or bring, or attempt or endeavour to carry or bring, into any such place of confinement as aforesaid, or shall supply or cause to be supplied to any offender there confined as an offender, any spirituous or fermented liquors, it shall be lawful for any overseer or other officer belonging to such place of confinement to apprehend

hundred or cause to be apprehended such person, and to carry such person before a justice of the peace (who is hereby empowered to hear and determine such offence in a summary way); and if he shall lawfully convict such person of such offence, he shall forthwith commit such person to the common gaol or house of correction of the place where the same shall be heard and determined, there to be kept in custody for any time not exceeding three months, without bail or mainprize, unless such person shall immediately pay down such sum of money, not exceeding 20*l.*, and not less than 10*l.*, as the said justice shall impose upon such person; one moiety thereof to be paid to the informer, and the other moiety to be paid and made applicable to the maintenance of the place employed for the confinement of offenders under sentence of transportation, as aforesaid."

1 Will. 4, c. 28.

Sect. 7. "That, from and after the commencement of this act, when any person shall be convicted at any session of oyer and terminer or gaol delivery, or at any quarter or other general session of the peace, to be holden for any county, riding, division, city, borough, liberty, or place, within that part of Great Britain called England, or at any great session to be holden for the county palatine of Chester, or within the principality of Wales, of any crime punishable by death, if his majesty shall be pleased to extend mercy to any such offender upon condition of imprisonment, or upon condition of imprisonment with hard labour, and such intention of mercy shall be signified by one of his majesty's principal secretaries of state to the court before whom such offender hath been or shall be convicted, or any subsequent court, with the like authority, such court shall allow to such offender the benefit of a conditional pardon, and make an order for the imprisonment of such offender, with or without hard labour, as the case may be; and, in case such intention of mercy shall be so signified to the judge or justice before whom such offender hath been or shall be convicted, or to any judge of his majesty's Court of King's Bench or Common Pleas, or to any baron of the Exchequer of the degree of the coif, in England, such judge, justice, or baron shall allow to such offender the benefit of a conditional pardon, and make an order for such imprisonment of such offender, in the same manner as if such intention of mercy had been signified to the court during the term or session in or at which such offender was convicted, and such allowance and order shall be considered as an allowance and order made by the court before which such offender was convicted, and shall be entered on the records of the same court by the proper officer thereof, and shall be as effectual to all intents and purposes, and have the same consequences, as if such allowance and order had been made by the same court during the continuance thereof; and every such order shall subject the offender to be so imprisoned."

Manner of proceeding in cases of extension of mercy to offenders convicted of capital offences.

Sect. 8. "And whereas, by the aforesaid act of the fifth year of his majesty's reign, power is given to his majesty to appoint a superintendent of places of confinement within England and Wales, and power also to appoint one fit and able person to be assistant or deputy of such superintendent, at one or more of the same places of confinement; and, by the said act, power is also given to remove male offenders convicted in Great Britain, and being under sentence or order of transportation, and to confine such offenders at land or on board any vessel to be provided by his majesty within the limits of any port or harbour in any part of his majesty's dominions out of England named in any order in council, under the management of the said superintendent, and of an overseer to be appointed by his majesty for each such vessel or other place of confinement; and whereas it is expedient that power should be given to his majesty to appoint an assistant or deputy to the said superintendent, in any such part of his majesty's dominions out of England: be it therefore enacted, that it shall be lawful for his majesty, in case it shall be deemed expedient, to appoint a fit and able person to be assistant or deputy to such superintendent, at any such place of confinement out of England named in any order in council, as aforesaid, to be constantly resident at or near the place to which he shall be appointed."

Power to appoint an assistant or deputy to the superintendent at places of confinement out of England.

The 25 Geo. III. c. 46, provided for the more effectual transportation of male offenders in Scotland, and for the removal of prisoners reprieved during

25 Geo. 3, c. 46.
Transportation of Scotch offenders.

SCOTCH
OFFENDERS.

4 Geo. 4, c. 47.

56 Geo. 3, c. 63.
Committee to
certify to princi-
pal secretary of
state for home
department,
when peniten-
tiary shall be fit
for reception of
convicts.Periods of con-
finement.Regulations as to
time of confine-
ment of convicts
sentenced to
transportation,
and removed to
penitentiary.Convicts break-
ing prison or
escaping.

Punishment.

pleasure, or under sentence of transportation in Scotland, to temporary places of confinement; and for the punishment of offenders escaping, or being at large, before the expiration of their sentences, and of persons rescuing them, or assisting them to escape; and was continued for two years from the twenty-fourth of March, 1821, to the end of the then next session of Parliament.—The statute 4 Geo. IV. c. 47, authorized the employment on public works in the colonies of male offenders convicted in Great Britain, and under sentence of transportation: but that statute, together with the 56 Geo. III. c. 27, expired on the last day of the session of 1824.

By statute 56 Geo. III. c. 63, passed for the purpose of regulating the general penitentiary for convicts at Millbank, in the county of Middlesex, s. 13, it is enacted, "that when the said penitentiary, or a sufficient part thereof, shall be fitted and completed for the reception of convicts, and proper officers shall be appointed for the care and management thereof, the said committee shall certify, under their hands and seals, to his majesty, through the said principal secretary of state for the home department, that such penitentiary is so fitted and completed; and that such officers have been appointed; and after the making of such certificate, it shall and may be lawful for his majesty, by an order in writing, to be notified by the said secretary of state, to direct, that any person who may be under sentence or order of transportation, for any offence committed within that part of the United Kingdom called England and Wales, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed from the gaol or prison in which such person may be confined, shall be removed to the said penitentiary, there to remain and continue for and during the term of five years, in case such convict shall be under sentence or order of transportation for seven years only, and for and during the term of seven years, in case such convict shall be under such sentence or order for fourteen years; and for and during the term of ten years, in case such convict shall be under such sentence or order for life."

Sect. 14. "Provided, that in case any convict shall be removed to the said penitentiary, who, having been under sentence or order of transportation for the term of seven years, shall previously to his or her being removed to the said penitentiary, have been kept confined in some other gaol or prison, during a part of such term, such convict shall be confined in the said penitentiary under this act, for five-seventh parts of the residue of his or her term of seven years' transportation, remaining unexpired, when he or she shall be received into the said penitentiary; excluding, nevertheless, from the computation of such reduced period of confinement, any fractional part of a week which may result from such reduction; and in case any convict shall be removed to the said penitentiary, who, having been under sentence or order of transportation for the term of fourteen years, shall, previously to his or her being so removed, have been kept confined in some other gaol or prison during a part of such term, such convict shall be confined in the said penitentiary under this act for one half of the residue of his or her term of fourteen years' transportation remaining unexpired, when he or she shall be received into the said penitentiary; excluding, nevertheless, from the computation of such reduced period of confinement any fractional part of a day which may result from such reduction; and in case of any convict who, having been under sentence or order of transportation for life, shall be removed to the said penitentiary for the term of ten years as aforesaid, such term of ten years shall be computed from the time of his or her being received into the said penitentiary."

Sect. 43. "That if any convict who shall be ordered to be confined in the said penitentiary, shall at any time during the term of such confinement break prison, or escape from the place of his or her confinement, or in his or her conveyance to such place of confinement, or from the person or persons having the lawful custody of such convict, he or she so breaking prison or escaping shall be punished by an addition of three years to the term for which he or she at the time of his or her breach of prison or escape was subject to be confined; and if such convict so punished by such addition to the term of confinement shall

afterwards be convicted of a second escape or breach of prison, he or she shall be adjudged guilty of felony without benefit of clergy."

56 Geo. 3, c. 62.

Sect. 44. "That if any person shall rescue any convict who shall be ordered to be confined within the said penitentiary, either during the time of his or her conveyance to the said penitentiary, or whilst such convict shall be in the custody of the person or persons under whose care and charge he or she shall be so confined; or if any person shall be aiding or assisting in any such rescue, every such person so rescuing, aiding, or assisting, shall be guilty of felony, and may be ordered to be confined in the said penitentiary for any term not less than one year, nor exceeding five years; and if any person having the custody of any such convict as aforesaid, or being employed by the person having such custody, as a keeper, under-keeper, turnkey, assistant, or guard, shall voluntarily permit such convict to escape; or if any person whatsoever shall, by supplying arms, tools, or instruments of disguise, or otherwise, be in any manner aiding and assisting to any such convict in any escape, or in any attempt to make an escape, though no escape be actually made, or shall attempt to rescue any such convict, or be aiding and assisting in any such attempt, though no rescue be actually made, every such person so permitting, attempting, aiding, or assisting, shall be guilty of felony; and if any person having such custody, or being so employed by the person having such custody, as aforesaid, shall negligently permit any such convict to escape, such person so permitting shall be guilty of a misdemeanor, and being lawfully convicted of the same, shall be liable to fine or imprisonment, or to both, at the discretion of the court."

Rescuing or attempting to rescue convicts.

Felony.

Officers permitting escape;

supplying means of escape.

Felony.

Misdemeanor. Punishment.

Sect. 45. "That any convict escaping, breaking prison, or being rescued in manner aforesaid, may and shall be tried before the justices of oyer and terminer or gaol delivery, or at the great sessions, either for the county where he or she shall be apprehended and re-taken, or for the county in which the said offence shall have been committed; and in case of any prosecution for any such escape, attempt to escape, breach of prison, or rescue, either against the convict escaping or attempting to escape, or having broken prison, or being rescued, or against any other person or persons concerned therein, or aiding, abetting, or assisting the same, a copy properly attested, of the order of commitment to such penitentiary, shall, after proof made that the person then in question before the court is the same that was delivered with such order, be sufficient evidence to the court and jury that the person then in question was so ordered to such confinement."

Mode of trial and conviction.

Evidence of order of confinement.

It will be observed, that the 24th section of the 5 Geo. IV. c. 84, *ante*, p. 947, enacts, that the certificate of the clerk of the court of the conviction and sentence shall be sufficient evidence on an indictment against a person found at large before the expiration of his term of transportation. In a case upon a former statute (6 Geo. I. c. 23), which required that the certificate should contain the effect and tenor of the indictment and conviction, and of the order and contract for transportation; and also, upon another statute (24 Geo. III. c. 56, s. 5), which required a certificate containing the effect and substance only, omitting the formal part of the indictment and conviction, the indictment stated, that the prisoner was convicted of grand larceny within the benefit of clergy, and the certificate was in the same form; and the judges, upon the point being reserved, held that both were insufficient. *R. v. Sutcliffe, Russ. & Ry. 469, 470; Russ. C. & M. 402.* So, in a case upon a statute (56 Geo. III. c. 47, s. 8) which required the certificate to contain the effect and substance only (omitting the formal part) of the indictment and conviction, and order for transportation, it was held, that an indictment which stated that the prisoner had been convicted of felony, without stating the nature of that felony, and a certificate which stated only that the prisoner had been convicted of felony, were insufficient, and the prisoner was remitted to his former sentence. *R. v. Watson, Russ. & Ry. 468; 1 Russ. Crim. & Misd. 402.*

Decisions upon statutes.

Indictment and certificate of former conviction.

In a case where an indictment stated the condition upon which the royal clemency was extended to have been general, whereas it appeared not to have been general, but specific, viz. that the prisoner should be transported to places specified, the variance was held to be fatal. *R. v. Fitzpatrick, Russ. & Ry. 512; 1 Russ. C. & M.*

Evidence of the day of prisoner's discharge.

Where the prisoner had received a pardon on condition of transporting himself *beyond the seas* within fourteen days from the day of his discharge, and it was incumbent on the prosecutor to prove the precise day on which the prisoner was discharged, it was holden, that the daily book of the prison, containing entries of the names of the criminals brought to the prison, and the times when they were discharged, though generally made from the information of the turnkeys or from their indorsements on the back of the warrants, was good evidence to prove the time of the prisoner's discharge. *R. v. Dick*, 1 *Leach*, 391, 392. And it was held, that though, if a convict, on his trial for returning from transportation before his time was expired, should confess the fact and acknowledge that he is the man, the court would record such confession; yet, no such confession being made, it was necessary to produce the record of conviction, and give evidence of the prisoner's identity. 1 *Haw. P. C. c. 47, s. 21*.

Evidence of a sign-manual.

When a convict was sentenced to transportation for seven years, and received a *sign-manual* promising him a pardon, "on condition of his giving a security to transport himself for that period, within fourteen days," and upon his giving such security was discharged from prison, but neglected to transport himself within the fourteen days, it was holden, that he could not be indicted for being unlawfully found at large before the term for which he had received sentence of transportation had expired, on the ground that such sign-manual, and the recognizance entered into in consequence of it, were good evidence that he was *lawfully* at large, although he had not substantially performed the condition on which the promise of pardon was granted. *R. v. Miller*, 1 *Haw. P. C. c. 47, s. 22*; 1 *Leach*, 74; 2 *Bla. R.* 797; 1 *Russ. C. & M.* 403.

Ill health, &c. when an excuse for not leaving kingdom.

It was decided in *Aickle's case*, 1 *Leach*, 396, that if the prisoner had, at the time of his discharge, a real intention to quit the kingdom within the time, but was prevented from carrying it into execution by the distress of poverty and ill health, these impediments would amount to a lawful excuse.

Being at large in Great Britain after sentence of death, commuted for transportation for life.

In *R. v. Patrick Madan*, 1 *Leach*, 223, it was said, that a prisoner convicted of a capital crime, whose sentence is respited during the king's pleasure, and who, on having received a pardon on condition of transportation for life, is afterwards found at large in Great Britain, *without lawful cause*, shall, on his being indicted for returning from transportation and acquitted, be referred back to his original sentence.

Second sentence of transportation.

In *R. v. Bath and others*, 1 *Leach*, 441, it was held, that sentence of transportation may be passed a second time upon a prisoner, although the time for which he before received sentence of transportation be not expired.

Provisions of the Mutiny Act as to transportation.

The annual Mutiny Act, now the 11 Geo. IV. c. 7, s. 7, enacts, that whenever a general court-martial, by which any soldier shall have been tried, shall not think the offence deserving of capital punishment, the court may, instead of awarding a corporal punishment or imprisonment, adjudge the offender, according to the degree of the offence, to be transported as a felon for life, or for a certain term of years. And it is also provided, that in all cases where a capital punishment shall have been awarded by a general court-martial, his majesty, instead of causing such sentence to be carried into execution, may order the offender to be transported as a felon, either for life or for a certain term of years. And if any person so transported as a felon, whether in pursuance of the original sentence or in pursuance of such order from his majesty, shall afterwards return, or be found at large, without leave from his majesty, or other lawful authority, within any part of his majesty's dominions, abroad or at home (other than the place to which he shall have been transported), before the expiration of the term limited by such sentence or order, and shall be duly convicted thereof, he shall suffer death as a felon.—And sect. 18 of the same act provides, that the sentence must be notified to a judge; and that a certificate, &c. shall be evidence.

Royal marines.

Similar enactments will be found in acts relating to the royal marine forces whilst on shore. See 11 Geo. IV. c. 8, s. 17, 19.

30 Geo. 3, c. 47.

By the 30 Geo. III. c. 47, s. 1, intituled "An Act for enabling his Majesty to authorize his Governor or Lieutenant-Governor of such places beyond the

Seas, to which Felons or other Offenders may be transported, to remit the Sentence of such Offenders," it is enacted, "that it shall be lawful for his majesty, his heirs, and successors, at all times, by his or their commission under the great seal of Great Britain, to authorize and empower the governor, or the lieutenant-governor for the time being, of such place or places aforesaid, or of any of them, by an instrument in writing, under the seal of the government in which the place or places as aforesaid are or shall be situated, to remit, either absolutely or conditionally, the whole or any part of the time or term for which any such felons, or other offenders aforesaid, shall have been or shall hereafter be respectively conveyed and transported to such place or places as aforesaid; and that such instrument or instruments shall have the like force and effect, to all intents and purposes, as if his majesty, his heirs, and successors, had in such cases respectively signified his or their royal intention of mercy under his or their sign manual."

And by sect. 2, "that such governor or lieutenant-governor as aforesaid shall, by the first opportunity, transmit to one of his majesty's principal secretaries of state, a duplicate, under the seal of the government, of each and every instrument as aforesaid by which the time or term of transportation of any such felons, or other offenders as aforesaid, hath been remitted or shortened; and that the names of such felons, and other offenders respectively, which shall be contained in such duplicates as aforesaid, shall be inserted in the next general pardon which shall pass under the great seal of Great Britain, after the receipt of such duplicate or duplicates by one of his majesty's principal secretaries of state."

Where an offender returns by permission of the governor of New South Wales, according to the provisions of the 30 Geo. III. c. 47, he is only to have the same advantage as if his majesty had signified his intention of mercy under his sign manual, and is to have his name inserted in the next general pardon under the great seal; a return, therefore, under such circumstances, is not sufficient to restore him to all his rights and capacities, until such pardon is signified under the great seal. *Bullock v. Dodds*, 2 B. & A. 258.

30 Geo. 3, c. 47.
His majesty, under the great seal, may authorize the governor, or lieutenant-governor, of New South Wales, &c. to remit the sentences of offenders.

Duplicates of instruments remitting sentences, to be transmitted to the secretary of state, &c.

(No. 1.)

Commencement as usual, as *ante*, p. 71.] — *having been transported beyond the seas for the term of [seven years], in pursuance of a certain judgment against him for [state shortly the substance of the offence for which he was transported], feloniously and unlawfully, and without any lawful cause or excuse, was, on, &c., and before the expiration of the said term of [seven years], at large at, in the county aforesaid; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]*

Commitment on 5 Geo. 4, c. 84, s. 23, for returning from transportation.

(No. 2.)

The jurors for our lord the king upon their oath present, that heretofore, to wit, at the general quarter sessions of the peace, holden at [so continuing the order of transportation in the past tense; then proceed thus:] (a) And the jurors aforesaid, upon their oath aforesaid, do further present, that the said C. D., afterwar s, that is to say, after he, the said C. D., was so ordered to be transported, as aforesaid, and before the expiration of the term of [seven years] for which he, the said C. D., was so ordered to be transported, as aforesaid, to wit, on, &c., feloniously and unlawfully, and without any lawful cause or excuse whatsoever, was at large within the United Kingdom of Great Britain and Ireland, to wit, at, &c., aforesaid; against the form of the statute, in such case made and provided, and against the peace of our said lord the king, his crown and dignity.

Indictment for a like offence.

(a) See the 5 Geo. IV. c. 84, s. 23, as to the form of indictment, *ante*, p. 947.

Traverse.

[60 Geo. 3. c. IV.]

Traverse, whence. TRAVERSE took its name from the French *de traverse*, which is no other than *de transverso*, in Latin, signifying *on the other side*; because, as the indictment on the one side chargeth the party, so he, on the other side, cometh in to discharge himself. *Lamb. 540.*

The word *traverse* is only applied to an issue taken upon an indictment for a misdemeanor; and it should rather seem applicable to the fact of putting off the trial till a following sessions or assizes, than to the joining of issue; and therefore, perhaps, the derivation is from the meaning of the words *transversus*, which, in barbarous Latin, is to go over, *i. e.* to go from one sessions, &c. to another, and thus it is that the officer of the court asks the party whether he be ready to try then, or will traverse over to the next sessions, &c.; but the issue is joined immediately, by pleading not guilty.

Traverse, what.

To traverse an indictment, then, is to take issue upon the chief matter thereof; which is the same as if one shall say, *to make contradiction, or to deny the point of the indictment.*

As in a presentment against a person for a highway overflowed with water, for default of scouring a ditch, which he and they, whose estate he hath in certain lands there, have used to scour and cleanse, such person may traverse either the matter,—to wit, that there is no highway there, or that the ditch is sufficiently scoured; or otherwise he may traverse the cause,—to wit, that he hath not that land, or that he and they whose estate he hath have not used to scour the ditch. *Lamb. 541.*

Right of traverse restrained in misdemeanors.

By the 60 Geo. III. and 1 Geo. IV. c. 4, “to prevent delay in the administration of justice in cases of misdemeanor,” after reciting that, “whereas great delays have occurred in the administration of justice, in cases of persons prosecuted for misdemeanors by indictment or information in his majesty’s courts of King’s Bench at Westminster and Dublin, and by indictment at the sessions of the peace, sessions of oyer and terminer, great sessions and sessions of gaol delivery, in that part of Great Britain called England, and in Ireland, respectively, by reason that the defendants, in some of the said cases, have, according to the present practice of such respective courts, an opportunity of postponing their trials to a distant period, by means of imparlances in the said several courts of King’s Bench, and by time being given to try in such respective courts of session, for remedy thereof, it is enacted, “that from and after the passing of this act, where any person shall be prosecuted in his majesty’s court of King’s Bench at Westminster, or in his majesty’s court of King’s Bench in Dublin, respectively, for any misdemeanor, either by information or by indictment there found or removed into the same respective courts, and shall appear in term-time in either of the said courts respectively in person, to answer to such indictment or information, such defendant, upon being charged therewith, shall not be permitted to imparle to a following term, but shall be required to plead or demur thereto within four days from the time of his or her appearance; and in default of his or her pleading or demurring within four days as aforesaid, judgment may be entered against the defendant for want of a plea; and in case such defendant shall appear to such indictment or information by his or her clerk or attorney in court, it shall not be lawful for such defendant to imparle to a following term, but a rule, requiring such defendant to plead, may forthwith be given, and a plea or demurrer to such indictment or information enforced, and judgment by default entered thereupon, in the same manner as might have been done, before the passing of this act, in cases where the defendant had appeared to such indictment or information by his or her clerk in court, or attorney, in a previous term.”

Persons prosecuted in K. B. for misdemeanors, appearing in court, not permitted to imparle.

Judgment may be entered for want of plea.

Court may allow further time to plead.

Sec. 2. “Provided that it shall be lawful for the said respective courts, for any judge of the same respectively, upon sufficient cause shown for the

purpose, to allow further time for such defendant to plead or demur to such indictment or information." 88 Geo. 3, c. 4.

Sect. 3. "That, from and after the passing of this act, where any person shall be prosecuted for any misdemeanor by indictment at any session of the peace, session of oyer and terminer, great session, or session of gaol delivery, within that part of Great Britain called England, or in Ireland, having been committed to custody, or held to bail, to appear to answer for such offence twenty days at the least before the session at which such indictment shall be found, he or she shall plead to such indictment, and trial shall proceed thereupon at such same session of the peace, session of oyer and terminer, great session, or session of gaol delivery, respectively, unless a writ of *certiorari* for removing such indictment into his majesty's courts of King's Bench at Westminster or in Dublin, respectively, shall be delivered at such session before the jury shall be sworn for such trial."

Persons in custody or held to bail within 20 days before sessions, to plead, unless a writ of *certiorari* delivered before jury sworn.

Sect. 4. "That such writ of *certiorari* may be applied for and issued before such indictment has been found, in the like cases, in the same manner, and upon the same terms and conditions, as if such writ of *certiorari* had been applied for after such indictment had been found."

Certiorari may be issued before indictment found.

Sect. 5. "That from and after the passing of this act, where any person shall be prosecuted for any misdemeanor by indictment at any session of the peace, session of oyer and terminer, great session, or session of gaol delivery, within that part of Great Britain called England, or in Ireland, not having been committed to custody, or held to bail, to appear to answer for such offence twenty days before the session at which such indictment shall be found, but who shall have been committed to custody, or held to bail, to appear to answer for such offence at some subsequent session, or shall have received notice of such indictment having been found twenty days before such subsequent session, he or she shall plead to such indictment at such subsequent session, and trial shall proceed thereupon at such same session of the peace, session of oyer and terminer, great session, or session of gaol delivery, respectively, unless a writ of *certiorari* for removing such indictment into his majesty's courts of King's Bench at Westminster or in Dublin, respectively, shall be delivered at such last-mentioned session, before the jury shall be sworn for such trial, any law or usage to the contrary notwithstanding."

In what cases indictments may be tried at subsequent sessions.

Unless *certiorari* delivered as herein mentioned.

Sect. 6. "Provided that nothing in this act contained shall extend, or be construed to extend, to prevent any indictment, found by a grand jury of any city or town corporate, from being removed, at the prayer of any defendant, for trial by a jury of the county next adjoining to the county of such city or town corporate, pursuant to the provisions of an act passed in the thirty-eighth year of his present majesty's reign, intituled, 'An Act to regulate the Trial of Causes, Indictments, and other Proceedings, which arise within the Counties of certain Cities and Towns Corporate within this Kingdom'; and upon such removal, the defendant shall plead, and the trial shall be had according to the provisions of this act, in like manner as if such indictment had been originally found by a grand jury of such next adjoining county."

Proviso for removing indictments found by grand jury to an adjoining county to be tried. 88 Geo. 3, c. 52.

Sect. 7. "Provided that it shall be lawful for the court, at any session of the peace, session of oyer and terminer, great session, or session of gaol delivery, respectively, upon sufficient cause shown for that purpose, to allow further time for pleading to any such indictment, or for trial of the same."

Court may allow further time for pleading, &c.

Sect. 8. "That in all cases of prosecution for misdemeanors, instituted by his majesty's attorney or solicitor-general, in any of the courts aforesaid, the court shall, if required, make order that a copy of the information or indictment shall be delivered, after appearance, to the party prosecuted, or his clerk in court, or attorney, upon application made for the same, free from all expense to the party so applying; provided that such party, or his clerk in court, or attorney, shall not have previously received a copy thereof."

In prosecutions by attorney-general, &c., copy of information, &c., delivered gratis.

Sect. 9. "Provided that in case any prosecution for a misdemeanor instituted by his majesty's attorney or solicitor-general in any of the courts aforesaid, shall not be brought to trial within twelve calendar months next after the plea of not guilty shall have been pleaded therein, it shall be lawful for the court in which such prosecution shall be depending, upon application to be

If prosecution not brought to trial within twelve calendar months, court may make order thereon, upon notice.

66 Geo. 3, c. 4.

Proviso for *quo warranto* actions, &c.

Who entitled to traverse.

made on the behalf of any defendant in such prosecution, of which application twenty days' previous notice shall have been given to his majesty's attorney or solicitor-general, to make an order, if the said court shall see just cause so to do, authorizing such defendant to bring on the trial in such prosecution; and it shall thereupon be lawful for such defendant to bring on such trial accordingly, unless a *nolle prosequi* shall have been entered in such prosecution."

SecT. 10. "That nothing in this act contained shall extend, or be construed to extend, to any prosecution by information, in nature of a *quo warranto*, or for the non-repair of any bridge or highway."

It is observed by Mr. Talfourd, in his valuable edition of *Dickenson's Sessions*, p. 333; that, under this statute, all persons who have been in custody, or are out on bail, upon the same charge, for more than twenty days, are, on the finding of the indictment, bound to plead and try *instantly*, like parties charged with felony. And, where an indictment has been found at a former sessions, and the party has been afterwards taken, or bailed, or received notice of the indictment twenty days before the subsequent session, he is bound at such session to plead and try, unless a writ of *certiorari* first remove the proceedings. This act, however, does not apply to prosecutions for omitting to repair bridges or highways, which are subject to traverse, as before the statute.

Mr. Talfourd continues, that, "with this exception, the right to traverse an indictment just found at the sessions is now confined to parties who have not been in custody, or out on bail twenty days, in respect of the charge; and the right to traverse an indictment previously found is confined to such as have not received twenty days' notice of the indictment pending against them. In these instances, the right remains; and it may be proper here to observe, that this right exists, although the party may have been twenty days in custody on a charge arising out of the same transaction, if the degree of the accusation is altered; as, if he were committed for felony, and the bill be found for misdemeanor. This point arose in the case of the *King v. Edward Gibbes Wakefield*, at the Lancaster spring assizes, 1827. The defendant had been committed more than twenty days before the assizes for a felony; but, at the assizes, it was thought right to indict him jointly with others for a misdemeanor, and Mr. Justice Park, after much consideration, decided that he had a right to traverse." *Talf. Dick. Sess.* 334.

If a party has been held to bail, or committed for more than twenty days on a charge of *felony*, and the grand jury ignore the bill for the felony, and find a bill for a *misdemeanor* in attempting it, the party is entitled to traverse. *R. v. James*, 3 C. & P. 222.

Mode of traversing.

The mode of traversing is, for the defendant to come into court, and bring with him two sufficient sureties, and then to deliver them, with their previous additions, to the clerk of the peace, who reads the indictment, to which the defendant pleads "not guilty." The clerk of the peace, or clerk of assize at the circuit, then calls upon the party indicted, by name, to enter into a recognizance before the court to appear, enter, and try his traverse at the next sessions, and not depart without leave on that occasion. 4 *Bla. Com.* 351. *Dick. Sess.* 334. The principal and his bail then signify "that they are content." *Dick. Sess.* 335.

When the defendant is anxious to try the charge against him, he should serve the prosecutor with a notice of his intention to proceed to trial of the traverse. Such notice should be served two days before and for the sessions of the peace, and eight days before and for the assizes.

The justices at the sessions may fix as a general rule what notice they think will be sufficient. 4 *Bla. Com.* 351, n. 5.

The notice should be signed by the defendant himself, and not by his attorney. 1 *Chit. C. L.*, 2 ed. 488, a.

Where the defendant is indicted before the justices of oyer and terminer the notice should specify in substance the nature of the offence charged. 6 C. C. 21.

The notice should be served personally on the prosecutor. *Cro. C. C.* 21.

The notice of a defendant's intention to try a traverse is not a condition precedent to its being tried, but a mere regulation of practice. Therefore, if a

prosecutor appears, it cures all defects in it, and he is not allowed to appear for the purpose of objecting to the notice. *R. v. Hobby*, 1 C. & P., N. P. C. 660; *R. & M.*, C. N. P. 241.

The defendant should appear in person at the bar of the court at the time appointed for the trial of the traverse: he should be prepared with an affidavit of the service of the above notice of trial.

Whilst the defendant is at the bar, the clerk of the peace reads the indictment to the jury, and then says, "to which indictment the defendant hath pleaded not guilty. Your business, gentlemen, is to inquire whether he be guilty or not guilty, and hearken to your evidence." Then the crier makes the usual proclamation; and, if the prosecutor appears, the trial proceeds. *Dick. Sess.* 336.

If a prosecutor do not appear according to the notice, the defendant is acquitted, the prosecutor being (*by the crier*) called to come and give evidence. Then the chairman addresses the jury thus: "Gentlemen, A. B. stands indicted for making an assault upon Z. Y. (*or as the offence is*): no one appears to prove that he is guilty, and therefore you must acquit him." And thereupon the jury, being asked (*by the clerk of the peace*), "whether the defendant is guilty or not guilty," say, "not guilty." *Dick. Sess.* 336.

If the prosecutor could not be met with, so as to serve a notice of trial on him, there must be an affidavit of the endeavours to do it, and the court should be moved on such affidavit to respite the recognizances, and put off the trial to the next session or assize.

The court, on granting such application, will make an order at the same time, that a new notice, left at the last place of the prosecutor's abode, or at the office of the clerk of the peace, with certain conditions of publication or notification, as to the said court shall seem necessary, shall be sufficient. These terms imposed by the court being complied with, the defendant must make out a venire, enter his traverse, and be prepared with affidavits of the order, and of the acts done in conformity with it, to be produced at the ensuing sessions; when, if the prosecutor again fail to appear, the jury will be sworn, and an acquittal directed. *Dick. Sess.* 336.

After the defendant has traversed the indictment, and entered into a recognizance to appear, enter, and try, he cannot, by rendering himself to prison in discharge of his bail, procure himself to be tried at the next assizes, under the commission of gaol delivery, in order to save the fees which otherwise he would be liable to pay, because the condition of his recognizance is not fulfilled without entering his traverse. 1 *Leach*, 111. But he might have been tried at the sessions of gaol delivery, if he had given ten days' notice to the prosecutor, before he pleaded, of his intention so to try. *Id.* 112.

(No. 1.)

A. B., you acknowledge to owe to our sovereign lord the king the sum of
, and you, *C. D.* and *E. F.*, severally acknowledge to owe, &c., the respective
sums of _____ and _____, to be respectively levied of your goods
and chattels, lands and tenements, to his majesty's use, by way of recognizance, upon
condition that you, *A. B.*, shall appear at the next session of the peace to be holden
for this county, to try your traverse upon this indictment, to which you have now
pleaded not guilty, and not depart without leave of the court.

Recognizance to
try a traverse.

(No. 2.)

The King on the prosecution of A. B.
against
C. D.

Mr. A. B.,

Take notice, that I intend to appear at the next general [or, general quarter]

Defendant's notice of intention
to try traverse.
(a)

(a) See other forms, 4 *Chit. C. L.*

FORMS.

sessions of the peace to be holden at [or, to be holden by adjournment at] the Guildhall, in _____, in and for the county of M., on _____ next, being the _____ day of _____, by _____ o'clock in the forenoon of the same day, and then and there try my traverse upon the indictment which you have preferred against me for [assaulting] you.

Dated, &c.

C. D.

To A. B., of _____.

(No. 3.)

The King
against

C. D., on the prosecution of A. B. for an assault.

Middlesex. A. B., of, &c., [attorney] for the defendant in this prosecution, maketh oath that, on the _____ day of, &c., he, this deponent, did personally serve the said A. B. with a true copy of the notice hereunto annexed, [annex one], and, at the same time, did inform the said A. B. of the contents and purport thereof; and this deponent believes that such notice hath not been countermanded.

A. B.

Sworn at the [New Sessions House],
this _____ day of _____, 1830.

By the Court.

(No. 4.)

Record of traverse.

Forasmuch as in the record of one traverse there is at once discovered the year of the sessions, the indictment, the process to answer, the traverse itself, the verdict and judgment thereupon, the process of execution, the yielding of the parties, and the assessment of their fines, so that it alone may serve instead of all, is judged requisite to insert the same, as follows:—

Style of the sessions.

Somerset. } Heretofore, to wit, at the sessions of the peace at Bridgewater, in the county aforesaid, on the Tuesday next before the feast of St. Martin the Apostle, in the _____ year of the reign of _____, by the grace of God, of the United Kingdom of Great Britain and Ireland, king, defender of the faith, before J. P. and K. P., Esqs., and other their associates, justices of our lord the king, assigned to keep the peace in the county aforesaid, in and to hear and determine divers felonies, trespasses, and other misdemeanors, in the same county committed, by the oath of twelve jurors, it is presented, that John Long, of R. M., of _____, and T. L., of _____, with divers others natural

The indictment.

evil doers and disturbers of the peace of our said lord the king, in a seditious manner arrayed, joined, and assembled, on the _____ day of _____, in the year of the same day, in the year aforesaid, with force and arms, to wit, with swords, staves, clubs, guns, and other arms, as well offensive as defensive, at the close of one W. Willet (called B.), unlawfully, riotously, and routously broke in, entered, and eight waggon-loads of hay, to the value of _____, then a there being, of the goods and chattels of the said W. W., then and there unjustly and unlawfully took and carried away, against the peace of our said lord the king, against the form of the statute in that case made and provided; whereupon he commanded to the sheriff that he should not omit for any liberty within his bailiwick cause them to come to answer. And, afterwards, to wit, on the Tuesday next before the feast of St. Matthew the Apostle, in the year aforesaid, before aforesaid justices, came the aforesaid J. L., R. M., and T. L., in their proper persons and, having had the hearing of the indictment aforesaid, severally say that they thereof not guilty, and of this they put themselves upon the country; and Adam Martin, who for our lord the king in this behalf prosecutes, in like manner doth the same. Therefore let there come thereupon a jury before the justices of our said lord the king assigned to keep the peace in the county aforesaid, and also to hear and determine &c., at the sessions of the peace at Wells, &c., on the Tuesday next after the Epiphany of our Lord, then next to be holden, and who are not of kin to the said J. L., R. M., and T. L., nor to any of them, to recognize upon their oath whether the said J. L., R. M., and T. L., are guilty of the crime charged in the said indictment; because well the said Adam Martin, who prosecutes for the said lord the king in this behalf as the said J. L., R. M., and T. L., have put themselves upon the said jury. The same day is given as well to the aforesaid A. M., who prosecutes, &c., as to the

Process to answer.

Traverse.

Jury.

said J. L., R. M., and T. L., &c. To which sessions of the peace, holden at W. aforesaid, in the county aforesaid, on the aforesaid day, &c., before and their associates, justices of our said lord the king, assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the same county committed, came as well the aforesaid A. M., who prosecutes, &c., as the aforesaid J. L., R. M., and T. L., in their proper persons. And the jurors aforesaid, by the sheriff of the county aforesaid, for this impannelled and demanded, to wit, A., B., C., D., &c., likewise did come; who, to say the truth concerning the premises being tried and sworn, say, upon their oath, that the aforesaid J. L., R. M., and T. L., are guilty, and every of them is guilty of trespass, contempt, and riot, aforesaid, in the indictment aforesaid above specified, in manner and form as against them is above supposed. Therefore it is considered by the court that the aforesaid J. L., R. M., and T. L., be taken to satisfy our lord the king of their fines, by occasion of the trespass, contempt, and riot aforesaid. Which J. L., R. M., and T. L., then and there present in court, prayed that they to a fine with our said lord the king, by the occasion aforesaid, may be admitted; and therefore they put themselves severally upon the mercy of our lord the king. And the fine of the same J. L. by the justices aforesaid is assessed at 3l. 6s. 8d.; and the fine of the same R. M. is assessed at 20s.; and the fine of the same T. L. is assessed at 5l., of good and lawful money of Great Britain, to the use and behoof of our said lord the king. Lamb. 543:

Verdict.

Judgment.

Process of execution.

Fine assessed.

Treason. (a)

[3 Edw. I. c. 15; 25 Edw. III. st. 5, c. 2; 1 Mary, sess. 1, c. 1; 31 Car. II. c. 2; 7 Wil. III. c. 3; 13 Wil. III. c. 3; 6 Anne, c. 7; 7 Anne, c. 21; 17 Geo. II. c. 39; 20 Geo. II. c. 30; 6 Geo. III. c. 53; 30 Geo. III. c. 48; 36 Geo. III. c. 7; 39 & 40 Geo. III. c. 93; 54 Geo. III. c. 146; 57 Geo. III. c. 6, c. 7; 9 Geo. IV. c. 31.]

TREASON, according to Lord Coke, is derived from *trahir*, to betray; and *trahison*, by construction, *treason*, is the betraying itself. 3 Inst. 4.

Meaning of the word treason.

Treason, generally speaking, is intended, not of petit treason, but of high treason only. 1 Hale, 316.

Notwithstanding that treason and misprision of treason are not within the letter of the commission of the peace, yet, inasmuch as they are against the peace of the king and of the realm, any justice of the peace may, either upon his own knowledge, or the complaint of others, cause any person to be apprehended for any such offence. And such justice may take the examination of the person so apprehended, and the information of all those who can give any material evidence against him, and put the same in writing, and also bind over such who are able to give any such evidence, to the King's Bench or gaol delivery, and certify his proceedings to such court. 2 Haw. c. 8, s. 34; Hale's Sum. 168; 1 Hale, 372.

Power of justices of the peace therein.

And having committed the offender (for he is by no means bailable by justices of the peace, 3 Edw. I. c. 15; 2 Haw. c. 15, s. 44), it may be advisable for him to send an account immediately of all the particulars to a secretary of state.

Bail. 3 Edw. I. c. 15.

By the 25 Edw. III. st. 5, c. 2, which Lord Hale calls a *sacred* act, and Lord Coke an excellent act, and the king who made it a *blessed* king, and the parliament a *blessed* parliament, all treasons which had been uncertain before were settled. Which act, by the 1 Mary, sess. 1, c. 1, is reinforced, and again made the only standard of treason; and all statutes, between the said statutes of the 25 Edw. III. and 1 Mary, which made any offences high or petit treason, or misprision of treason, are abrogated; so that no offence is at this day to

Treason by the 25 Edw. 3.

(a) The offence of treason being of so rare occurrence, it is thought fit not to enlarge thereon in this edition.

25 Edw. 3, c. 2. be esteemed high treason, unless it be either declared to be such by the said statute of the 25 Edw. III., or made such by some statute since the 1 Mary.

And therefore I shall first consider such offences as are high treason within the said statute of the 25 Edw. III., and then such as are made treason by statutes subsequent to the said statute of the 1 Mary.

The words of the statute of the 25 Edw. III., as to this matter, are as follow:

25 Edw. 3, st. 5,
c. 2.

"Whereas divers opinions have been before this time in what case treason shall be said, and in what not [that is, what shall or shall not be said to be treason]; the king, at the request of the lords and commons, hath made a declaration in the manner as hereafter followeth: that is to say, when a man doth compass or imagine the death of our lord the king, or of our lady his queen, or of their eldest son and heir; or if a man do violate the king's companion [that is, his wife, 3 Inst. 9], or the king's eldest daughter unmarried, or the wife of the king's eldest son and heir; or if a man do levy war against our lord the king in his realm, or be adherent to the king's enemies in his realm, giving to them aid and comfort in the realm, or elsewhere; and thereof be probably [proveablement, proveably] attainted of open deed, by the people of their condition. And if a man counterfeit the king's great or privy seal, or his money; and if a man bring false money into the realm, counterfeit to the money of England, knowing the money to be false; and if a man slay the chancellor, treasurer, or the king's justices of the one bench or the other, justices in eyre, or justices of assize, and all other justices assigned to hear and determine, being in their places, doing their offices. And it is to be understood, that in the cases above rehearsed, that ought to be judged treason which extends to our lord the king, and his royal majesty."

1 Mar. Sess. 1,
c. 1.

And by the statute of the 1 Mary, sess. 1, c. 1, which Lord Hale (1 Hale, 303) calls another excellent law, "No act, deed, or offence, being by act of Parliament made treason, by words, writing, ciphering, deeds, or otherwise whatsoever, shall be adjudged to be treason, but only such as be declared by the said statute of the 25 Edw. III." And this (he says) at one blow laid fast all the numerous treasons at any time enacted since the 25 Edw. III.

Words.

Of Open Deed—Lord Coke (3 Inst. 14, 140) seems to be of opinion, upon the said act of the 25 Edw. III., that bare words are not a sufficient overt act, or open deed, whereby to convict a person of treason; but that they are imprisonment of treason only. So, also, Lord Hale (1 Hale, 111, 118, and elsewhere throughout) seemeth to think that words, unless put into writing, are not regularly an overt act. But Mr. Hawkins (1 Haw. c. 17, s. 39) argues the contrary, and amongst other reasons for his opinion, he observes, that to charge a man with speaking treason, is unquestionably actionable, which could not be, if words could amount to treason: also, that as, in case of felony, he who by command or persuasion induceth another to commit felony, is an accessory to a felony, so he who does the same in treason is a principal traitor (there being no accessories in treason, but all being principals); and yet such person does not act but by words. Nevertheless, at this day, it seems clearly to be agreed that by the common law and the statute of Edw. III., words spoken amount only to a high misdemeanor, and no treason. 4 Bla. Com. 80.

The offences which have by different statutes been made treason since the 1 Mary, are as follows:—

The Pretender's claims were provided against by the 13 Wil. III. c. 1. 6 Anne, c. 7; and 17 Geo. II. c. 39; but these are now of course obsolete.

Offences in relation to the coin are made treason by many statutes; which are treated of in title Coins, Vol. I.

Also, there are many offences made treason with regard to the papal usurped jurisdiction; which are treated of under title Popery, ante.

Accessories in
high treason.

In high treason, as hath been said before, there are no accessories, but all are principals; and, therefore, whatsoever act or consent will make a man accessory to a felony before the act done, the same will make him a principal: case of high treason. 3 Inst. 9, 21.

Prosecution to be
in three years.

By the 7 Wil. III. c. 3, no person shall be prosecuted for high treason within three years after the offence committed; except in the case of design to assassinate the king's person.

And by the 31 Car. II. c. 2, persons committed for high treason shall be indicted the next term, or next assize; otherwise they shall be let to bail, unless it appear to the court, upon oath, that the witnesses for the king could not be produced in that time; and, in such case, they shall be indicted the second term or assize, or else discharged.

By the 7 Wil. III. c. 3. s. 1, persons indicted for high treason, whereby corruption of blood shall be made, or for misprision of such treason (except for counterfeiting the coin, the great seal, privy seal, privy signet, or sign manual), shall have a copy of the indictment (but not the names of the witnesses) delivered to them five days before the trial.

Sect. 7. And they shall have copies of the panel of the jurors delivered to them, two days before trial.

And shall have process of court to compel their witnesses to appear.

And moreover, the 7 Anne, c. 21, s. 11, enacts, that after the death of the person pretending to be king of England by the name of James the Third, when a person is indicted for high treason or misprision of treason, both a copy of the indictment and lists of the jurors, and also of the witnesses, shall be delivered to the party indicted, ten days before the trial.

But the 6 Geo. III. c. 53, s. 3, prevents this from extending to any indictment of high treason for counterfeiting the coin, the great seal, privy signet, or the sign manual.

And the 7 Wil. III. c. 3, enacts, that such person shall have two such counsel as they shall desire assigned them by the court, who shall have access to them at reasonable times.

Likewise, by the 20 Geo. II. c. 30, persons impeached by the House of Commons of high treason, whereby corruption of blood shall be made, or for misprision thereof, shall be admitted to make their full defence by two counsel, who shall be assigned for that purpose, in like manner as upon indictments and other prosecution.

The 7 Wil. III. c. 3, s. 1, allows them to make their defence by witnesses on oath.

And, by sect. 2, they shall not be attainted but on the oath of two witnesses, either both of them to the same overt act, or one of them to one and the other of them to another overt act of the same treason: unless they shall confess or stand mute, or refuse to plead, or challenge peremptorily above thirty-five of the jury.

By the 39 & 40 Geo. III. c. 93, after reciting, "whereas it is expedient that in cases of high treason in compassing or imagining the death of the king, and of misprision of such treason, where the overt act or overt acts of such treason alleged in the indictment for such offence shall be the assassination or killing of the king, or any direct attempt against his life, or any attempt against his person, whereby his life may be endangered, or his person may suffer bodily harm, the trial for such offence should not be different from trials for murder, or wilful and malicious shooting;" it is enacted, "that in all cases of high treason in compassing or imagining the death of the king, and of misprision of such treason, where the overt act or overt acts of such treason which shall be alleged in the indictment for such offence shall be assassination or killing of the king, or any direct attempt against his life, or any direct attempt against his person whereby his life may be endangered, or his person may suffer bodily harm, the person or persons charged with such offence shall and may be indicted, arraigned, tried, and attainted, in the same manner, and according to the same course and order of trial, in every respect, and upon the like evidence, as if such person or persons stood charged with murder; and none of the provisions contained in the several acts of the seventh year of King William the Third, and the seventh year of Queen Anne respectively, touching trials in cases of treason and misprision of treason respectively, shall extend to any indictment for high treason in compassing and imagining the death of the king, or for misprision of such treason, where the overt act or overt acts of such treason alleged in the indictment shall be such as aforesaid; but upon conviction on such indictment, judgment shall be nevertheless given, and

54 Geo. 2, c. 146. execution done, as in other cases of high treason; any law, statute, or usage, to the contrary notwithstanding."

Form of sentence
in case of high
treason.

By the 54 Geo. III. c. 146, intituled, "An Act to alter the Punishment in certain Cases of High Treason," after reciting, that, "whereas in certain cases of high treason, as the law now stands, the sentence or judgment required by law to be pronounced or awarded against persons convicted or adjudged guilty of the said crime, in such cases, is, that they should be drawn on a hurdle to the place of execution, and there be hanged by the neck, but not until they are dead, but that they should be taken down again, and that when they are yet alive their bowels shall be taken out and burnt before their faces, and that afterwards their heads should be severed from their bodies, and their bodies be divided into four quarters, and their heads and quarters to be at the king's disposal; and whereas it is expedient in the said cases of high treason to alter the sentence or judgment now required by law:" it is enacted, "that in all cases of high treason, in which, as the law now stands, the sentence or judgment ordained by law is as aforesaid, the sentence or judgment to be pronounced or awarded, from and after the passing of this act, against any person convicted or adjudged guilty, shall be, that such person shall be drawn on a hurdle to the place of execution, and be there hanged by the neck until such person be dead; and that afterwards the head shall be severed from the body of such person, and the body, divided into four quarters, shall be disposed of as his majesty and his successors shall think fit."

His majesty may
alter sentence.

SECT. 2. "That in case his majesty or his successors shall so think fit, his majesty or his successors, after such sentence or judgment shall be pronounced or awarded, may by warrant under his or their sign manual, countersigned by one of his majesty's principal secretaries of state, declare it to be his or their will and pleasure, and may direct and order that such person as aforesaid shall not be drawn, but shall be taken in such manner as in the said warrant shall be expressed, to the place of execution, and that such person shall not be there hanged by the neck, but that instead thereof the head shall be there severed from the body of such person whilst alive, and in such warrant may direct and order how and in what manner the body, head, and quarters of such person shall be disposed of; and it shall be lawful for the sheriff or other person or persons to whom such warrant shall be addressed, and whom it shall concern, to carry the same into execution accordingly."

The ancient judgment of a woman for high treason was to be drawn and burned. 3 *Inst.* 211.

30 Geo. 2, c. 48.
Forfeiture.

But, by the 30 Geo. III. c. 48, s. 1, women are not to be burned, but hanged. In the said judgment is implied forfeiture of lands and goods to the loss of dower, and corruption of blood. 3 *Inst.* 211. See *Attainder*, Vol. I.

Persons who shall
compass, devise,
&c., the death,
restraint, &c., of
his majesty or his
heirs, or to de-
pose them, or to
levy war to com-
pel a change of
measures, &c., to
be deemed
traitors.

By the 36 Geo. III. c. 7, s. 1, it is enacted, "that if any person or persons whatsoever, after the day of the passing of this act, during the natural life of our most gracious sovereign lord the king (whom Almighty God preserve and bless with a long and prosperous reign), and until the end of the next session of Parliament after the demise of the crown, shall, within the realm or without, compass, imagine, invent, devise, or intend death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of the person of the same our sovereign lord the king, his heirs and successors, or to deprive or depose him or them from the style, honour, or kingly name, the imperial crown of this realm, or of any other of his majesty's dominions or countries; or to levy war against his majesty, his heirs and successors, within this realm, in order, by force or constraint, to compel him or them to change his or their measures or counsels, or in order to put any force or constraint upon him or to intimidate or overawe both houses, or either house of Parliament, or to stir any foreigner or stranger with force to invade this realm, or any other of his majesty's dominions or countries, under the obedience of his majesty, his heirs and successors; and such compassings, imaginations, inventions, devices, intentions, or any of them, shall express, utter, or declare, by publishing or printing or writing, or by any overt act or deed, being legally convicted thereof upon the oaths of two lawful and credible witnesses, upon trial, or otherwise

convicted or attainted by due course of law, then every such person and persons, so as aforesaid offending, shall be deemed, declared, and adjudged to be a traitor and traitors, and shall suffer pains of death, and also lose and forfeit as in cases of high treason."

By the 57 Geo. III. c. 7, s. 1, after reciting, that "whereas by an act passed in the thirty-sixth year of his present majesty's reign, intituled, 'An Act for the Safety and Preservation of his Majesty's Person and Government against Treasonable and Seditious Practices and Attempts,' it was amongst other things enacted, 'that if any person or persons whatsoever, after the day of the passing of that act, during the natural life of his majesty, and until the end of the next session of Parliament after the demise of the crown, should, within the realm or without, compass, imagine, invent, devise, or intend death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of the person of his majesty, his heirs and successors, or to deprive or depose him or them from the style, honour, or kingly name of the imperial crown of this realm, or of any other of his majesty's dominions or countries, or to levy war against his majesty, his heirs and successors, within this realm, in order by force or constraint to compel him or them to change his or their measures or counsels, or in order to put any force or constraint upon or to intimidate or overawe both houses or either house of Parliament, or to move or stir any foreigner or stranger with force to invade this realm or any other his majesty's dominions or countries under the obedience of his majesty, his heirs and successors, and such compassings, imaginations, inventions, devices, or intentions, or any of them, should express, utter, or declare, by publishing any printing or writing, or by any overt act or deed, being legally convicted thereof upon the oaths of two lawful and credible witnesses upon trial, or otherwise convicted or attainted by due course of law, then every such person and persons, so as aforesaid offending, should be deemed, declared, and adjudged to be a traitor and traitors, and should suffer pains of death, and also lose and forfeit as in cases of high treason: and whereas it is necessary and expedient that such of the provisions of the said act as would expire at the end of the next session of Parliament after the demise of the crown, should be further continued and made perpetual;" it is enacted, "that all and every the hereinbefore recited provisions which relate to the heirs and successors of his majesty, the sovereigns of these realms, shall be and the same are hereby made perpetual."

36 Geo. 3, c. 7.

The said provisions made perpetual.
57 Geo. 3, c. 7.

Petit Treason.

High treason is against the king, petit treason against the subjects. 3 *Inst.* 20. Petit treason, what.

The judgment against a man for petit treason, is, that he shall be drawn to the place of execution, and there hanged by the neck till he be dead. 2 *Haw.* Judgment.
c. 49, s. 5.

The consequence of attainder is, forfeiture of lands (to the lord of the fee) and of goods; loss of dower; and corruption of blood. 2 *Haw.* c. 46, s. 1. Forfeiture.
See *Attainder*, Vol. I.

Although there can be no accessaries in high treason, yet in petit treason there may be accessaries, both before and after. 3 *Inst.* 21. Accessary.

By the 9 Geo. IV. c. 31, s. 2, it is enacted, "that every offence, which before the commencement of this act would have amounted to petit treason, shall be deemed to be murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or as accessaries, shall be dealt with, arrested, tried, and punished as principals and accessaries in murder." See *Homicide*, Vol. III. Petit treason to be treated in all respects as murder.

Misprision of Treason.

Misprision cometh of the French word *mépris*, which properly signifieth neglect or contempt: and misprision of treason, in legal understanding, signifieth, Misprision, what.

Judgment.

Caution.

Misprision of
petit treason.

when one knowing of any treason, though no party or consenter to it, yet conceals it, and doth not reveal it in convenient time. 3 Inst. 36; 1 Hale, 371.

The judgment of misprision of treason is, to be imprisoned during life, to forfeit all his goods for ever, and the profits of his lands during life. 3 Inst. 36.

Every man, therefore, that knoweth a treason, ought with all speed reveal it to the king, his privy council, or other magistrate. Hale's Sum. 127.

But it seemeth that misprision of petit treason is not subject to the judgment of misprision of high treason, but only is punishable by fine and imprisonment, as in the case of misprision of felony. 1 Hale, 375.

In East's P. C., Vol. I., from p. 37 to 140, will be found a very satisfactory treatise on this crime.

(No. 1.)

Commitment for
high treason, by
compassing the
king's death.

Commencement as usual, as ante, 71.] — on, &c., at, &c., maliciously and traitorously did compass, imagine, devise, and intend, to depose our sovereign lord William the Fourth, from the royal state, title, power, and government of this realm, and from the style, honour, and kingly name of the imperial crown thereof, and to bring and put our said lord the king to death; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end.]

(No. 2.)

Indictment for a
like offence. (a)

— } The jurors for our lord the king upon their oath present, that C. D. to wit, } late of, &c., a subject of our said lord the king then and there being, not regarding the duty of his allegiance, nor having the fear of God in his heart, but being moved and seduced by the instigation of the devil, as a false traitor against our said lord the king, and wholly withdrawing the allegiance, fidelity, and obedience, which every true and faithful subject of our said lord the king should and of right ought to bear towards our said lord the king, on, &c., and on divers other days, as well before as after, with force and arms, at the parish aforesaid, in the county aforesaid, maliciously and traitorously, together with divers other false traitors, to the jurors aforesaid unknown, did compass, imagine, devise, and intend, to depose our said lord the king from the royal state, title, power, and government of this realm, and from the style, honour, and kingly name of the imperial crown thereof, and to bring and put our said lord the king to death; and the said treasonable compassing, imagination, device, and intention, then and there maliciously and traitorously did express, utter, declare, and evince, by divers overt acts and deeds hereinafter mentioned (that is to say), in order to fulfil, perfect, and bring to effect, his most evil and wicked treasonable compassing, imagination, device, and intention aforesaid, he, the said C. D., as such false traitor as aforesaid, afterwards, to wit, on the said day of, &c. and on divers other days, as well before as after, with force and arms, at the parish aforesaid, in the county aforesaid, maliciously and traitorously did conspire, counsel, consent, and agree with one A. B., E. F., and divers other false traitors, to the jurors aforesaid unknown, to raise, levy, and make insurrection, rebellion, and war, within this kingdom, against our said lord the king; and, further to fulfil, perfect, and bring to effect, his most evil and wicked treasonable compassing, imagination, device, and intention aforesaid, he, the said C. D., as such false traitor as aforesaid, afterwards, to wit, &c. &c. [stating other overt acts, and conclude thus in contempt of our said lord the king and his laws, to the evil example of all others in the like case offending, contrary to the duty of the allegiance of him, the said C. D., against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity.]

(a) See a variety of forms, 2 Chit. C. L. and Archd. C. L.

Treasure Found.

[4 Edw. I. st. 2.]

TREASURE trove, or treasure found, is where any money or coin, gold, silver, plate, or bullion, is found hidden in the earth, or other private place, the owner thereof being unknown; in which case, the treasure belongs to the king (or to some other by the king's grant or prescription): but if he that hid it be known, or afterwards found out, the owner and not the king is entitled to it. 1 *Bla. Com.* 295.

Treasure trove, what.

Also, if it be found in the sea, or upon the earth, it doth not belong to the king, but to the finder, if no owner appears. So that it seems it is the hiding, not the abandoning of it, that gives the king a property. *Id.*

This difference arises from the different intentions which the law implies in the owner. A man that hides his treasure in a secret place evidently doth not mean to relinquish his property, but reserves a right of claiming it again when he sees occasion; and, if he dies, and the secret also dies with him, the law gives it to the king, in part of his royal revenue. But a man that scatters his treasure into the sea, or upon the public surface of the earth, is construed to have absolutely abandoned his property, and returned it into the common stock, without any intention of reclaiming it; and therefore it belongs, as in a state of nature, to the first occupant or finder, unless the owner appear and assert his right, which then proves that the loss was by accident, and not with an intent to renounce his property. 1 *Bla. Com.* 295.

Larceny cannot be committed of such things whereof no man hath any determinate property, though the things themselves are capable of property, as of treasure trove, or wreck, till seized; though he that hath them in point of franchise may have a special action against him that takes them. 1 *Hale*, 510.

Taking treasure trove, not felony.

The punishment for concealment of treasure trove is by fine and imprisonment. 3 *Inst.* 133.

But punishable.

And it belongeth to the coroner to inquire thereof. *Id.*

Concerning which, it is enacted by the 4 Edw. I. st. 2, that a coroner, being certified by the king's bailiffs, or other honest men of the country, shall go to the places where treasure is said to be found. And it is further enacted in the same statute, that the coroner ought to inquire of treasure that is found, who are the finders, and likewise who is suspected thereof, and that may be well perceived, where one liveth riotously, haunting taverns, and hath done so of long time; hereupon he may be attached for this suspicion by four or six, or more pledges, if they may be found. See, further, *Coroner*, Vol. I.

The coroner may inquire thereof.

Also, it seems to be agreed, that all seizures of treasure trove, belonging to the king, may be inquired of in the sheriff's torn. But it seems questionable, whether a prescription in a court leet, to inquire of such seizure belonging to the lord of it, being a subject, be good or not, since it is against the general rule of the law for the leet to take cognizance of trespasses done to the private damage of the lord, because that would make him his own judge. 2 *Haw. c.* 10, s. 57.

Also the sheriff in his torn.

Treasurer. See *County Treasurer*, Vol. I.

Tres. See *Malicious Injuries to Property*, Vol. III. p. 734 to 739; *Larceny*, Vol. III. p. 565 to 566.

Trespasses.

AS to Malicious Trespasses done to property, and how punishable on summary conviction, &c. see **Malicious Injuries to Property**, Vol. III. p. 741, 742.

As to the liability of magistrates to an action for, see **Justices of the Peace**, Vol. III. p. 486 to 490.

No indictment lies for a mere civil trespass committed to land or goods; see 3 *Burr.* 1701; 8 *T. R.* 357; 13 *East*, 228.

Nor can a party be imprisoned for a mere civil trespass. *Id.* And see *Williams v. Glennister*, 4 *D. & R.* 217; 2 *B. & C.* 699; *Arrest*, Vol. I. p. 206.

Trial.

[See, further, *Sessions*, *ante*.]

Time of trial.

IN felonies, it is always the practice to try the defendant at the same assizes. 1 *Chit. C. L.* 483, and authorities there collected.

In misdemeanors, also, since the 60 Geo. III. c. 4, this is now the usual practice, whether at the assizes or sessions, unless when the defendant traverses, as in some cases he may do. See *Crabtree*, *ante*.

In capital cases, the court will not appoint the time of trial, unless the defendant be brought to the bar, and be personally in court, when the rule is made for the purpose. 2 *Stra.* 826.

Notice of trial and proceedings in a traverse.

We have already, while considering the nature of a traverse, and what allowed, treated of the requisite notices of trial, and subsequent proceedings therein, at the time appointed for the trial. See *Crabtree*, *ante*.

Postponing trial.

The court has always authority, if they think fit, to put off the trial, either in felonies or misdemeanors.

The most usual ground for putting off a trial is the absence of a material witness. *Bac. Ab. Trial*, &c.; but this is not in general a sufficient ground, if the witness was not absent at the time notice of trial was given. *Id.*; *Barnes*, 422. Nor will the court grant the application, if the witness be in a foreign country, and not likely shortly to return. 3 *Burr.* 1514; 1 *Bl. Rep.* 51; 8 *East*, 37; and see, as to the form of the affidavit, 1 *Chit. C. L.* 493.

There may be various other proceedings for putting off the trial. See 1 *Chit. C. L.* 491, and authorities there collected.

In order to support an application for putting off a trial, a previous notice thereof must be given to the opposite party. *Cro. C. C.* 22. The application must also be supported by an affidavit, stating fully and specifically the facts upon which the application is grounded. *Id.*

When the application is granted, it is seldom for more than the next term, or the ensuing assizes or sessions. *Bac. Ab. Trial*.

Place of trial.

We have already considered the place of trial, while treating of the venue, under title **Indictment**, Vol. III. p. 330 to 335. As to changing the place of trial, see 1 *Chit. C. L.* 495.

Adjournment.

If the trial cannot be concluded in one day, the court may adjourn from day to day, until it can be completed. 6 *T. R.* 530; 4 *Tam.* 311. When this is the case, the jury shall all retire together, to some adjoining tavern, where accommodations are prepared for them, and the bailiffs are sworn "well and truly to keep the jury, and neither to speak to them themselves, nor suffer any other person to speak to them, touching any matter relative to this trial." 6 *T. R.* 530. And if the jury separate, and one of them converse respecting the verdict with a stranger, the verdict will be bad, and a *venire de novo* awarded. 4 *B. & A.* 273; 2 *B. & A.* 462; 1 *Chit.* 401, S. C.

Withdrawing record.

When the party who has given notice of trial is not ready to proceed to trial of an indictment or information for a misdemeanor, at the time appointed, if the notice of trial, he may withdraw the record; but then he must pay the costs.

to the other party, unless he countermand his notice of trial in time to prevent any extra expenses. 1 *Sulk.* 193; 1 *Stru.* 33; 8 *East*, 270.

As to the proceedings attending the arraignment of the defendant, and the incidents thereto, see *Arraignment*, Vol. I.

We have already fully considered the proceedings at a trial, with reference to the jury. See *Jurors*, Vol. III.

If any one of the jury be taken ill during the trial, so as not to be able to attend, or die, the jury must be discharged, and another jury must be summoned. 2 *Leach*, 620; 4 *Taun.* 309; 3 *Camp.* 207; and see 1 *Chit. C. L.* 629.

When the jury are assembled in the jury-box, called, and sworn, the clerk, in case of *felony*, calls to the prisoner at the bar, and bids him hold up his hand, by saying, "C. D., hold up thy hand," and then addresses the jury in these words:—"Look upon the prisoner, you that are sworn, and hearken to his cause.—A. B. stands indicted by the name of A. B., &c." (*reading the indictment, as was done upon the arraignment, and then proceeding*) "Upon this indictment he hath been arraigned; upon this arraignment he pleaded not guilty; and, for his trial, hath put himself upon God and the country, which country you are; so that your charge is to inquire whether he be guilty of the high treason (or 'felony'), whereof he stands indicted, or not guilty. If you find him guilty, you shall inquire what lands, tenements, goods, and chattels he had at the time of the high treason (or 'felony') committed, or at any time since; if you find him not guilty, then you shall inquire if he did fly for it or not; if you find he did fly for it, then you shall inquire what goods and chattels he had at the time when he did fly for it, or at any time since; if you find him not guilty, and that he did not fly for it, say so, and no more. Hear your evidence." 2 *Hule*, 293; *Cro. C. C.* 8; 1 *Chit. C. L.* 554.

But, on the trial of an indictment for a *misdemeanor*, where it is not necessary for the defendant to appear, *ante*, Vol. I. p. 153, the indictment is not thus formally read over in court; and, indeed, there is no necessity for such a proceeding, as he is entitled to a copy.

After these proceedings, if the cause is of more than ordinary importance, the indictment is usually opened, and the evidence arranged, examined, and enforced, by the counsel for the prosecution. 4 *Bla. Com.* 354. The junior counsel usually states the outline of the indictment, and pleadings thereon, but he cannot speak to more than is upon the record, for it is the province of the leading counsel to state the circumstances of the offence, 1 *St. Tr.* 234; and it is not usual for the leading counsel to endeavour to aggravate the case, but to confine himself to the facts which he thinks will be proved in evidence. 6 *St. Tr.* 829; *Dick Ses.* 350; 1 *Chit. C. L.* 555.

After the speech of the leading counsel, the witnesses are called and examined. 4 *Harg. St. Tr.* 705.

As to the evidence and witnesses, and the mode of examination, &c., see *Evidence and witnesses*, Vol. II.

When the case for the prosecution is closed, the court asks the defendant if he has anything to say in answer to the charge. Upon this, he brings forward such evidence as he may be advised. Sometimes it is not advisable to bring forward any evidence.

In felonies, the prisoner's counsel has no right to address the court or jury on the merits of the case, but he may submit to the court any point of law in the defendant's favour. But the prisoner himself may make such address, either in felonies or misdemeanors; and in misdemeanors the prisoner's counsel may make it.

In *felonies*, the counsel for the prosecution has never any right to reply. In *Reply*. *misdemeanors*, he has such right, if the defendant has called any witnesses for his defence, or if his counsel has, in addressing the jury, stated any fact or any document which is not already in evidence, although he afterwards declines to prove the fact or put in the writing. 11 *Harg. St. Tr.* 288; 1 *Esp. R.* 227; *Peuke's N. P.* 4; *R. v. Bignold, Tulf. Dick. Ses.* 388; 1 *Chit. C. L.* 627. In crown prosecutions, the attorney-general and solicitor-general have in all cases a right of replying. 11 *Harg. St. Tr.* 267; 20 *St. Tr.* 664.

On the case being finished on both sides, the judge at the assizes, or chair-

TRIAL.

Arraignment and its incidents.

The jury.

Subsequent proceedings.

Counsel.

Evidence and witnesses.
Defence.

Summing up.

TRIAL.

Deliberation of
jurors in their
verdict.

man at the sessions, sums up the evidence, and, laying the substantial features of the case and defence before the jury, he directs them to consider their verdict accordingly.

After this charge is concluded, if the jury cannot agree in a short time, by consulting in their box, they retire to a convenient place appointed for the purpose, and the bailiff is sworn to keep them, as follows:—"You shall swear that you shall keep this jury without meat, drink, fire, or candle; you shall suffer none to speak to them, neither shall you speak to them yourself, but only to ask them, whether they are agreed: so help you God." *Co. Lit.* 227; *Dalt. c.* 185.

During this absence, the jury are not to eat or drink without the permission of the justices, or to speak with any one, except the bailiff, and merely to inform him whether they are agreed. *Id.*; *Tulj. Dick. Sess.* 389; 2 *Hale*, 296; 1 *Chit. C. L.* 632.

Until the jury are agreed, none of them must separate, or leave the place appointed for their deliberations, without the special permission of the court, *Co. Lit.* 227; but the judges may adjourn while the jury are withdrawn to confer, and return to receive the verdict. 3 *Harg. St. Tr.* 731; 4 *Bl. Com.* 360.

The verdict.

The verdict must, in all cases, except inferior misdemeanors, be delivered in the presence of the defendant, in open court, and publicly. *Co. Lit.* 227, s.; 2 *Haw. c.* 47, s. 2; *Sir T. Raym.* 193; 5 *Burr.* 2667.

There is no necessity that the jury should find the defendant guilty of all the charges laid against him: they may acquit him of a part, and find him guilty of the residue. See 2 *Haw. c.* 26; 1 *Chit. C. L.* 637; and see instances, *Burglary*, Vol. I.; *Larceny*, Vol. III.

An exception to this rule exists, where the prisoner, by being originally indicted for a different offence, would be deprived of any advantage which he would otherwise be entitled to claim; in which case the prosecutor is not permitted to oppress the defendant, by altering the mode of the proceedings. A defendant, therefore, cannot be found guilty of a misdemeanor on an indictment for felony, because he would by that means lose the benefit of having a copy of the indictment, a special jury, and of making his full defence by counsel. 1 *Chit. C. L.* 639; 2 *Stra.* 1137; 2 *Haw. c.* 47.

The jury may, in all cases, find a special verdict, by which the facts of the case are put on the record, and the law is submitted to the judges. 2 *Haw. c.* 47; 1 *Chit. C. L.* 642 to 647.

Trustee, When competent Witness. See *Evidence*, Vol. II. p. 71.

Tumult. See *Riot, Petition*, ante.

Turnips. See *Larceny of Vegetables*, &c. Vol. III. p. 58.
Malignant Injuries to Property, Vol. III. p. 737 to 739.

Turnpike. See *Highways' Turnpike*, Vol. III.

Uttering. See *Coining*, Vol. I.; *Forgery*, Vol. II.

Vagrants.

[45 Geo. III. c. 61; 52 Geo. III. c. 31; 58 Geo. III. c. 92; 4 Geo. IV. c. 64, s. 7; 5 Geo. IV. c. 13, c. 83.]

THE act now in force which consolidates, amends, and repeals the prior statutes relative to vagrants, is the 5 Geo. IV. c. 83; by which act, intituled, "An Act for the Punishment of Idle and Disorderly Persons, and Rogues and Vagabonds, in that part of Great Britain called England," after reciting the 3 Geo. IV. c. 40, and that the said act was to continue in force until the first day of September, 1824, and no longer; and that it is expedient to make further provision for the suppression of vagrancy, and for the punishment of idle and disorderly persons, rogues and vagabonds, and incorrigible rogues, in England: it is enacted, "that all provisions heretofore made relative to idle and disorderly persons, rogues, and vagabonds, incorrigible rogues or other vagrants, in England, shall be and the same are hereby repealed, except only as to any offence committed before the passing of this act, which shall be punished under the provisions of the said recited act, and save and except as hereinafter excepted."

5 Geo. 4, c. 83.

Former provisions made as to vagrants shall be repealed, except as to offences committed before the passing of this act.

Repealed.

Sect. 2. "And whereas by an act passed in the thirty-second year of the reign of his late majesty King George the Third, intituled, 'An Act to explain and amend an Act made in the seventeenth year of the reign of his late Majesty King George the Second, intituled, "An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and other disorderly Persons, and to Houses of Correction," his majesty's judges of assize and the justices at the general or quarter-sessions, or any justice of the peace, are empowered to order any convict upon his discharge from prison to be conveyed by pass in manner therein directed; and the judge, justices, or justice aforesaid, are also empowered to convey by pass any person who shall be acquitted at the assizes or general or quarter sessions, or discharged by proclamation or otherwise, who shall apply to be conveyed as aforesaid: and whereas doubts have arisen whether such parts of such act as give such power to order such person to be conveyed by pass were by the provisions of the said recited act of the third year of the reign of his present majesty repealed: and whereas it is expedient to remove such doubts; be it therefore declared and enacted, "that all such provisions of the said recited act of the thirty-second year of the reign of his late majesty King George the Third, as give such power of conveying by pass any convict upon his discharge from prison, and any person who shall be acquitted at the assizes or general or quarter sessions, or discharged by proclamation or otherwise, shall be and the same is hereby repealed."

Sect. 22. "Provided, that nothing herein contained shall be construed to extend or apply to Scotland or Ireland, nor to alter any law now in force for the removal of poor persons born in Scotland, Ireland, or the Isles of Man [Jersey and Guernsey (a)], and becoming chargeable to parishes in England, such persons not having committed acts of vagrancy as hereinbefore described, nor to alter any law now in force relating to lunatic vagrants."

Proviso for acts in force in Scotland and Ireland relative to removal of poor, &c.

The statute points out three classes of vagrants, viz.: 1, idle and disorderly persons; 2, rogues and vagabonds; 3, incorrigible rogues. We will treat of his subject in the following order:—

I. *Idle and Disorderly Persons*, p. 971.

[5 Geo. IV. c. 83, s. 3.]

II. *Rogues and Vagabonds*, p. 973.

[s. 4.]

(a) By the 11 Geo. IV. c. 5, the 5 Geo. IV. c. 83, so far as relates to the removal of poor persons born in the Isles of Jersey and Guernsey, and being chargeable to parishes in England, is repealed; and see the provisions of that act of 11 Geo. IV., *ante*, **poor**, Vol. IV.

III. *Incorrigible Rogues*, p. 974.

[s. 5, 10.]

IV. *Apprehending Offenders and Search-Warrants*, p. 975.

[s. 6, 7, 8, 13.]

V. *Recognizances to Prosecute, and Expenses of Prosecution*, p. 976.

[s. 9.]

VI. *Duties of Constables and Peace-Officers—Penalties for Neglect*, p. 976.

[s. 11, 12.]

VII. *Certificates to ask Alms*, p. 977.

[s. 15, 16.]

VIII. *Form, &c. of Conviction*, p. 978.

[s. 17.]

IX. *Appeal*, p. 978.

[s. 14.]

X. *Limitation, &c. of Actions—Treble Costs, &c.* p. 979.

[s. 18, 19.]

XI. *Removal of Convicts to their Settlements*, p. 979.

[s. 20.]

XII. *General Saving and Exemptions from the Vagrant Law*, p. 979.

[43 Geo. III. c. 61; 58 Geo. III. c. 92; 5 Geo. IV. c. 13, 21.]

I. *Idle and Disorderly Persons.*

Persons committing certain offences to be deemed idle and disorderly persons.

The 5 Geo. IV. c. 83, s. 3, enacts,—1, “that every person being wholly or in part to maintain himself or herself, or his or her family, by want or by other means, and wilfully refusing or neglecting so to do, by which refusal or neglect he or she, or any of his or her family whom he or she may be legally bound to maintain, shall have become chargeable to any parish, township, or place;”

2. “Every person returning to and becoming chargeable in any parish, township, or place, from whence he or she shall have been legally removed by order of two justices of the peace, unless he or she shall produce a certificate of the churchwardens and overseers of the poor of some other parish, township, or place, thereby acknowledging him or her to be settled in such other parish, township, or place;” (See *Poor*, Vol. IV. *Mann v. Dav-* 3 B. & A. 103.)

3. “Every petty chapman or pedlar wandering abroad and trading, without being duly licensed, or otherwise authorized by law;”

4. “Every common prostitute wandering in the public streets or public highways, or in any place of public resort, and behaving in a riotous or indecent manner;”

5. “And every person wandering abroad, or placing himself or herself in any public place, street, highway, court, or passage, to beg or gather alms, or causing, or procuring, or encouraging any child or children so to do;”

6. [And every person asking alms under a certificate or other instrument prohibited by the act; s. 16]

How punished.

“Shall be deemed an idle and disorderly person within the true intent and meaning of this act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by his own verdict or by the confession of such offender, or by the evidence on oath of one more credible witness or witnesses) to the house of correction, there to be set to hard labour for any time not exceeding one calendar month.”

And by the 4 Geo. IV. c. 64, s. 7, all idle and disorderly persons, rogues and vagabonds, incorrigible rogues, and other vagrants, are to be committed to houses of correction, and not to the common gaols. See *Gasls*, 4 Geo. 4, c. 64.

Vol. II.
The commitment must be for a precise definite time, to be specified in the warrant of commitment. *Baldwin and others v. Blackmore, Esq.*, 1 Burr. 596, S. P.; *R. v. J. Hall*, 3 Burr. 1636. If for deserting a family, the warrant must state that they were chargeable. 3 Burr. 1636. It must also state that the defendant had been convicted of the offence, and not merely that he had been charged. *R. v. Rhodes*, 4 T. R. 220; *R. v. Hooper*, 6 T. R. 225. It must also show the authority of the convicting justice. *R. v. York*, 5 Burr. 2684.

Form of commitment.

II. Rogues and Vagabonds.

By the 5 Geo. IV. c. 83, s. 4, it is enacted, "that every person committing any of the offences hereinbefore mentioned, after having been convicted as an idle and disorderly person;"

2. "Every person pretending or professing to tell fortunes, or using any subtle craft, means, or device, by palmistry or otherwise, to deceive and impose on any of his majesty's subjects;"

3. "Every person wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or waggon, not having any visible means of subsistence, and not giving a good account of himself or herself;"

4. "Every person wilfully exposing to view, in any street, road, highway, or public place, any obscene print, picture, or other indecent exhibition;"

5. "Every person wilfully, openly, lewdly, and obscenely exposing his person in any street, road, or public highway, or in the view thereof, or in any place of public resort, with intent to insult any female;"

6. "Every person wandering abroad, and endeavouring, by the exposure of wounds or deformities, to obtain or gather alms;"

7. "Every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence;"

8. "Every person running away and leaving his wife, or his or her child or children, chargeable, or whereby she or they, or any of them, shall become chargeable to any parish, township, or place;"

9. "Every person playing or betting in any street, road, highway, or other open and public place, at or with any table or instrument of gaming, at any game, or pretended game of chance;" (a)

10. "Every person having in his or her custody or possession any picklock, key, crow, jack, bit, or other implement, with intent feloniously to break into any dwelling-house, warehouse, coach-house, stable, or outbuilding, or being armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon, or having upon him or her any instrument with intent to commit any felonious act;" (b)

11. "Every person being found in or upon any dwelling-house, warehouse, coach-house, stable, or outhouse, or in any inclosed yard, garden, or area, for any unlawful purpose;" (b)

12. "Every suspected person or reputed thief, frequenting any river, canal, or navigable stream, dock, or basin, or any quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any place of public resort, or any avenue leading thereto, or any street, highway, or place adjacent, with intent to commit felony;"

Persons committing certain offences to be deemed rogues and vagabonds.

(a) See *Gaming*, Vol. II. In *R. v. Clarke*, 1 Cowp. 35, it was held, that playing bowls was not within the 17 Geo. II. c. 5, s. 2.

(b) See *R. v. Howarth, R. & M., C. C.* 207, *post*.

(b) And see 4 Geo. IV. c. 64, s. 7, *ante*, p. 972.

INCORRIGIBLE
ROGUES.

How punished.

Form of con-
viction.

13. "And every person apprehended as an idle and disorderly person, and violently resisting any constable or other peace-officer so apprehending him or her, and being subsequently convicted of the offence for which he or she shall have been so apprehended;" (a)

"Shall be deemed a rogue and vagabond, within the true intent and meaning of this act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses) to the house of correction, there to be kept to hard labour for any time not exceeding three calendar months; and every such picklock key, crow, jack, bit, and other implement, and every such gun, pistol, dagger, cutlass, bludgeon, or other offensive weapon, and every such instrument as aforesaid, shall, by the conviction of the offender, become forfeited to the king's majesty."

The conviction as a rogue and vagabond under the above 10th division of the head of vagrancy, must state that the implements, or some of them, were found on the prisoner at the time of his apprehension. *R. v. Brown*, 6 T. R. 26. *Brown* was committed upon the now repealed act, 23 Geo. III. c. 83, for having upon him many picklock keys, two crows, and other implements with an intent feloniously to break and enter into a dwelling-house at Waver. Objection was taken to the commitment, that it did not state that he had these implements upon him when he was apprehended. Lord Kenyon, C. J., said, "I yield with great reluctance to the objection, but I am afraid it is well founded;" and the prisoner was discharged.

III. Incorrigible Rogues.

Who shall be
deemed incorri-
gible rogues.

By the 5 Geo. IV. c. 83, s. 5, it is enacted—1. "That every person breaking or escaping out of any place of legal confinement before the expiration of the term for which he or she shall have been committed or ordered to be confined by virtue of this act;"

2. "Every person committing any offence against this act which shall subject him or her to be dealt with as a rogue and vagabond, such person having been at some former time adjudged so to be, and duly convicted thereof;"

3. "And every person apprehended as a rogue and vagabond, and violently resisting any constable or other peace-officer so apprehending him or her, and being subsequently convicted of the offence for which he or she shall have been so apprehended;"

How punished.

"Shall be deemed an incorrigible rogue within the true intent and meaning of this act; and it shall be lawful for any justice of the peace to commit such offender (being thereof convicted before him, by the confession of such offender, or by the evidence on oath of one or more credible witness or witnesses) to the house of correction, there to remain until the next general or quarterly sessions of the peace; and every such offender who shall be so committed to the house of correction shall be there kept to hard labour during the period of his or her imprisonment."

Power of ses-
sions to detain
and keep to hard
labour, and
punish, by
whipping, in-
corrigible rogues.

By sect. 10, "When any incorrigible rogue shall have been committed to the house of correction, there to remain until the next general or quarterly sessions, it shall be lawful for the justices of the peace there assembled to examine into the circumstances of the case, and to order, if they think fit, that such offender be further imprisoned in the house of correction, and be there kept to hard labour for any time not exceeding one year from the time of making such order, and to order further, if they think fit, that such offender (not being a female) be punished by whipping, at such time during his imprisonment, and at such place within their jurisdiction, as, according to the nature of the offence, they in their discretion shall deem to be expedient."

It should be observed, that justices in session have only an original jurisdiction over incorrigible rogues.

(a) See another instance in s. 15, *post*.

The form and manner of whipping may perhaps be best collected from the provisions of former vagrant acts. By the 22 Hen. VIII. c. 12, the vagrant was to be "carried to some market-town, or other place, and there tied to the end of a cart, naked, and beaten with whips throughout such market-town, or other place, till his body should be bloody by reason of such whipping." By the 39 Eliz. c. 4, s. 3, he was to be "stripped naked from the middle upwards, and only whipped till his body should be bloody."

APPREHENDING OFFENDERS, &c.

III. Apprehending Offenders, and Search-Warrants.

By the 5 Geo. IV. c. 83, s. 6, it is enacted, "that it shall be lawful for any person whatsoever to apprehend any person who shall be found offending against this act, and forthwith to take and convey him or her before some justice of the peace, to be dealt with in such manner as is hereinbefore directed, or to deliver him or her to any constable or other peace-officer of the place where he or she shall have been apprehended, to be so taken and conveyed as aforesaid; and in case any constable or other peace-officer shall refuse or wilfully neglect to take such offender into his custody, and to take and convey him or her before some justice of the peace, or shall not use his best endeavours to apprehend and to convey before some justice of the peace any person that he shall find offending against this act, it shall be deemed a neglect of duty in such constable or other peace-officer, and he shall on conviction be punished in such manner as is hereinafter directed."

Any person may apprehend offenders.

Constables, &c., neglecting their duty.

In a late case it was held that a man may be arrested without warrant, under the above section, as a person found in a dwelling-house, &c., with intent to commit a felony, if he is seen in the dwelling-house, but gets out of it, and is taken on fresh pursuit. And it makes no difference that he was not seen getting out of a house, if he was found concealing himself to avoid being apprehended, upon other premises near. *R. v. Howarth, R. & M., C. C. 207.*

To make such arrest legal, it is not necessary that the person should have, at the time he is arrested, a continuing purpose to commit the felony: he may be arrested though that purpose is wholly ended. *Id.*

In the same case it was held that where the circumstances are such that a man must know why a person is about to apprehend him, he need not be told, and the arrest will be legal, and the resistance illegal, as much as if he had been told. *Id.* See *Arrest*, Vol. I.

Sect. 7. "That it shall be lawful for any justice of the peace, upon oath being made before him that any person hath committed or is suspected to have committed any offence against this act, to issue his warrant to apprehend and bring before him or some other justice of the peace the person so charged, to be dealt with as is directed by this act."

Justices may issue warrant to apprehend suspected persons.

Sect. 8. "That it shall be lawful for any constable, peace-officer, or other person apprehending any person charged with being an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, to take any horse, mule, ass, cart, car, caravan, or other vehicle, or goods in the possession or use of such person, and to take and convey the same as well as such person before some justice of the peace, and for every justice of the peace by whom any person shall be adjudged to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, to order that such offender shall be searched, and that his or her trunks, boxes, bundles, parcels, or packages, shall be inspected in the presence of the said justice, and of him or her, and also that any cart, car, caravan, or other vehicle which may have been found in his or her possession or use, shall be searched in his or her presence; and it shall be lawful for the said justice to order that any money which may be then found with or upon such offender shall be paid and applied for and towards the expense of apprehending, conveying to the house of correction, and maintaining such offender during the time for which he or she shall have been committed; and if upon such search money sufficient for the purposes aforesaid be not found, it shall be lawful for such justice to order that a part, or, if necessary, the whole of such other effects then found, shall be sold, and that the produce of such sale shall

Indictment. Vagrants to be searched, and trunks, bundles, &c. to be inspected.

Money, and effects found upon vagrants; to be paid towards expense of apprehending and maintaining them.

DUTIES, &c.

Lodging-houses, &c., suspected to conceal vagrants, may be searched, and suspected persons brought before a justice.

be paid and applied as aforesaid, and also that the overplus of such money or effects, after deducting the charges of such sale, shall be returned to the said offender." (a)

Sect. 13. "That it shall be lawful for any justice of the peace, upon information on oath before him made, that any person hereinbefore described to be an idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue, is or is reasonably suspected to be harboured or concealed in any house kept or purporting to be kept for the reception, lodging, or entertainment of travellers, by warrant under his hand and seal to authorize any constable or other person or persons to enter at any time into such house, and to apprehend and bring before him or any other justice of the peace every such idle and disorderly person, rogue and vagabond, and incorrigible rogue, as shall be found therein, to be dealt with in the manner hereinbefore directed."

A warrant under the Vagrant Act, to search all suspected houses for idle and disorderly persons, is strictly confined to persons of that description; and the officer will not be justified if he attempt to execute it in any other places than those intended by the statute. 1 *Leach*, 208.

V. Recognizances to Prosecute, and Expenses of Prosecution.

Justices may bind persons by recognizance to prosecute vagrants at sessions.

By the 5 Geo. IV. c. 83, s. 9, it is enacted, "That when any justice as aforesaid shall commit any such incorrigible rogue to the house of correction, there to remain till the next general or quarter sessions, or when any such idle and disorderly person, rogue and vagabond, or incorrigible rogue, shall give notice of his or her intention to appeal against the conviction of him or her, and shall enter into recognizance as hereinafter directed to prosecute such appeal, such justice shall require the person by whom such offender shall be apprehended, and the person or persons whose evidence shall appear to him to be material to prove the offence and to support such conviction, to become bound in recognizance (b) to his majesty, his heirs and successors, to appear at the said general or quarter-sessions, to give evidence against such offender touching such offence; and the justices of the peace at their said general or quarter sessions are hereby authorized and empowered, at the request of any person who shall have become bound in any such recognizance, to order the treasurer of the county, riding, division, or place in which the offence shall have been committed, to pay unto such prosecutor, and unto the witness or witnesses on his or her behalf, such sum or sums of money as to the court shall seem reasonable and sufficient to reimburse such prosecutor and such witness or witnesses respectively for the expenses he, she, or they shall have been severally put to, and for his, her, or their trouble and loss of time in and about such prosecution, which order the clerk of the peace is hereby directed and required forthwith to make out and deliver unto such prosecutor, or unto such witness or witnesses upon being paid for the same the sum of 2s. and no more; and the said treasurer is hereby authorized and required, upon sight of such order, forthwith to pay unto such prosecutor or other person or persons authorized to receive the same, such money as aforesaid, and the said treasurer shall be allowed the same in his account; and in case any such person or persons as aforesaid shall refuse to enter into such recognizance, it shall be lawful for such justice to commit such person or persons so refusing to the common gaol, there to remain until he, she, or they shall enter into such recognizance, or shall be otherwise discharged by due course of law."

Sessions may order payment of expenses to prosecutors and witnesses.

Clerk of the peace to make out and deliver order.

VI. Duties, &c. of Constables, &c.

Officers neglecting their duties, &c.
Obstructing them.

By the 5 Geo. IV. c. 83, s. 11, it is enacted, "that in case any constable or other peace-officer, shall neglect his duty in anything required of him by this act, or in case any person shall disturb or hinder any constable, or other person

(a) See the 4 Geo. IV. c. 64, s. 39, where they have no effects. See *6th* and 5 Geo. IV. c. 85, s. 22, as to the Vol. II.
expenses of carrying vagrants to goal, (b) See Form (No. 7), *post*, p. 25.

officer, in the execution of this act, or shall be aiding, abetting, or assisting therein, and shall be thereof convicted upon the oath of one or more credible witness or witnesses, before one or more justice or justices of the peace, where such offence shall be committed, every such offender shall, for every such offence, forfeit any sum not exceeding 5*l.*; and in case such offender shall not forthwith pay such sum so forfeited, the same shall be levied by distress and sale of the offender's goods, by warrant from such justice or justices; and if sufficient distress cannot be found, it shall be lawful to and for one or more such justice or justices to commit the person so offending to the house of correction, there to be kept for any time not exceeding three calendar months, or until such fine be paid; and the said justice or justices shall cause the said fine, when paid, to be forthwith delivered to the treasurer of the county, riding, division, or place, where such offence shall have been committed, to be by him added to and used as part of the stock of the said county, riding, division, or place."

Sect. 12. "That in case any constable, or other peace-officer, shall be convicted before any one or more justice or justices of the peace, for any neglect of any duty required of him by this act, or of any disobedience of any lawful warrant or order of any justice or justices of the peace issued under the provisions of this act, and in case any two or more justices of the peace shall impose any fine, or direct any penalty to be paid by such officer, under and by virtue of the powers given to justices of the peace by an act passed in the thirty-third year of the reign of his late majesty King George the Third, intitled, 'An Act to authorize Justices of the Peace to impose Fines upon Constables, Overseers, and other Peace or Parish Officers, for Neglect of Duty, and on Masters of Apprentices for Ill-usage of such their Apprentices, and also to make Provision for the Execution of Warrants of Distress granted by Magistrates,' or under any other powers enabling such justices in that behalf, then and in every such case it shall be lawful for such justice or justices, upon conviction of any such offender, to reimburse and allow to the person or persons on whose complaint or information such offender shall have been convicted all necessary costs and expenses which such person or persons may thereby have incurred, or by any appeal made in consequence thereof, by making an order under his or their hancs and seals, upon the treasurer of the county, riding, division, or place, to pay to such person or persons the amount of such costs and expenses, on producing the said order, and giving a receipt for the same, and the same shall be allowed the said treasurer in his account."

CERTIFICATES
TO ASK ALMS.
5 Geo. 4, c. 83.
Penalty.

Distress.
Imprisonment.

On conviction of
officers, &c., justices
to make order
for payment
of expenses of
prosecution as
under.

VII. Certificates to ask Alms.

By the 5 Geo. IV. c. 83, s. 15, it is provided, that nothing therein contained "shall extend, or be construed to extend, so as to restrain, hinder, or prevent any visiting justice of any county gaol, house of correction, or other prison, from granting a certificate or other instrument for enabling any person discharged from a county gaol, house of correction, or other prison, to have or receive alms or relief, in or upon his or her route to his or her place of settlement; provided that such certificate be made and drawn up in compliance with the directions and provisions of any act or acts of Parliament for the better regulation and management of gaols, houses of correction, or prisons; and if any person to whom any such certificate or instrument shall be delivered shall act in any manner contrary to the directions or provisions of such certificate or instrument, or shall loiter upon his or her route, or shall deviate therefrom, every such person shall be, and be deemed to be, a rogue and vagabond within the provisions and directions of this act, and shall be punished accordingly."

Sect. 16. "That, from and after the passing of this act, no justice of the peace, mayor, or other magistrate, shall grant to any person, other than a person entitled thereto, under and by virtue of an act passed in the forty-third year of the reign of his late majesty King George the Third, intitled, 'An Act for the Relief of Soldiers, Sailors, and Marines, and of the Wives of Soldiers in the

Visiting justices
of gaols, &c., may
grant certificates
to persons dis-
charged to receive
alms in their
route.

Such persons
loitering, &c.,
deemed rogues.

No certificates
except to those
entitled under
43 Geo. 3, c. 61.

APPEAL.
Other persons
asking alms
deemed idle, &c.

Cases therein mentioned, so far as relates to England, any certificate or other instrument enabling such person to ask alms or relief in their route to any place, or for any other purpose whatever; and every person asking alms or relief under and by virtue of any certificate or other instrument hereby prohibited, is liable to be declared to be an idle and disorderly person in like manner as if he or she had possessed no such certificate or other instrument as aforesaid."

VIII. Form, &c. of Conviction.

Form of conviction under this act.

The 5 Geo. IV. c. 83, s. 17, enacts, "that no proceeding to be had before any justice or justices of the peace under the provisions of this act shall be quashed for want of form; and every conviction of any offender as an idle and disorderly person, or as a rogue and vagabond, or as an incorrigible rogue, under this act, shall be in the form or to the effect following, or as near thereto as circumstances will permit (that is to say):

" ——— } Be it remembered, that on the day of , in the year
to wit. } of our Lord , at , in the county of
 } A. B. is convicted before me, C. D., one of his majesty's justices of
the peace in and for the said county, of being an idle and disorderly person (or, if
rogue and vagabond, or an incorrigible rogue), within the intent and meaning of the
statute made in the fifth year of the reign of his late majesty King George the Fourth,
intituled, 'An Act' [here insert the title of this act]; that is to say, for that the said
A. B., on the day of , at , in the said county [here
state the offence proved before the magistrate], and for which said offence the said
A. B. is ordered to be committed to the house of correction at , [or,
to be kept to hard labour for the space of [or, until the next general
or quarter sessions]. Given under my hand and seal, the day, year, and at the place
first above written."

Conviction to be transmitted to the sessions, and a copy thereof to be evidence.

And the justice or justices of the peace before whom any such conviction shall take place, shall, and he and they is and are hereby required to transmit the said conviction to the next general or quarter sessions of the peace to be holden in and for the county, riding, division, or place wherein such conviction shall have taken place, there to be filed and kept on record; and a copy of the conviction so filed, duly certified by the clerk of the peace, shall and may be read as evidence in any court of record, or before any justice or justices of the peace acting under the powers and provisions of this act."

IX. Appeal.

Appeal to sessions.

The 5 Geo. IV. c. 83, s. 14, enacts, "that any person aggrieved by any act or determination of any justice or justices of the peace out of sessions, and concerning the execution of this act, may appeal to the next general or quarter sessions for the county, riding, division, or place, in and for which such justice or justices shall have so acted, giving to the justice or justices of the peace whose act or determination shall be appealed against, notice in writing of such appeal, and of the ground thereof, within seven days after such act or determination, and before the next general or quarter sessions, and entering within such seven days into a recognizance, with sufficient surety, before a justice of the peace for the county or place in which such person shall have been convicted, personally to appear and prosecute such appeal; and upon such notice being given, and such recognizance being entered into, such justice is hereby empowered to discharge such person out of custody; and the court at such general or quarter sessions shall hear and determine the matter of such appeal, and shall make such order therein as shall to the said court seem meet, and in case of the dismissal of the appeal, or the affirmation of the conviction, shall issue the necessary process for the apprehension and punishment of the offender according to the conviction."

Notice.

Recognizance.

Sessions may determine.

X. Limitations, &c. of Actions—Trespass Costs, &c.

The 5 Geo. IV. c. 83, s. 18, enacts, "that in all cases where an action shall be brought against any justice of the peace, constable, or other person, for or on account of any matter or thing whatsoever done or commanded by him in the execution of his duty or office under this act, such justice, constable, or other person, if he shall have judgment in his favour, shall have treble costs awarded to him by the court, unless the judge shall certify that there was a reasonable cause for such action."

Justices, &c. to have treble costs, if judgment be in their favour.

Sect. 19. "That every such action shall be commenced within three calendar months after the cause of action or complaint shall have arisen, and not afterwards; and if any person or persons shall be sued for any matter or thing which he, she, or they shall have done in the execution of this act, he, she, or they may plead the general issue, and give the special matter in evidence."

Limitation of actions.

General issue.

XI. Removal of Convicts to their Settlements.

By the 5 Geo. IV. c. 83, s. 20, it is enacted, "that every person who under the provisions of this act shall have been convicted as an idle and disorderly person, or as a rogue and vagabond, shall be deemed to be actually chargeable to the parish, township, or place in which such person shall reside; and such person shall be liable to be removed to the parish of his or her last legal settlement, by the order of two justices of the peace of the division or place in which such person shall reside."

Persons convicted chargeable to parish in which they reside.

XII. General Saving and Exemptions.

By the 5 Geo. IV. c. 83, s. 21, it is enacted, "that wherever, by any act or acts of Parliament now in force it is directed that any person shall be punished as an idle and disorderly person, or as a rogue and vagabond, or as an incorrigible rogue, for any offence specified in such act or acts, and not hereinbefore provided for by this act, in every such case, whether such person shall or shall not have committed any offence against this act, every such person shall be punished under the provisions, powers, and directions of this act."

Offenders under former acts to be punished under this act.

By the 43 Geo. III. c. 61, soldiers, sailors, mariners, and the wives of soldiers, therein mentioned, are relieved against the penalties of the vagrant acts. See its provisions, and those of the annual Mutiny Act, *Military Law*, Vol. III.

Soldiers.

Forms.

(No. 1.)

_____ } Be it remembered, that on, &c., at, &c., A. B., of _____, in the
to wit. } said county, [constable], cometh before me, J. P., one of his majesty's
justices of the peace for the said county, and on his oath informeth me, that C. D., on
the _____ day of _____, at the parish of _____, in the
county aforesaid [here state the act of vagrancy within the meaning of the 5 Geo.
IV. c. 83, ss. 3, 4, 5, ante, 972, 3, 4, as thus:] being then and there able wholly to
maintain himself and his family by work and by other means, did wilfully refuse and
neglect so to do; by which refusal and neglect the wife of the said C. D. and his [two]
children did then and there become chargeable, and are now chargeable, to the parish
of _____, in the said county [or as the case may be]; contrary to the
form of the statute in that case made and provided.

Information against a vagrant on 5 Geo. 4, c. 83.

A. B.

Taken and sworn before me, this _____ day }
of _____, 1831. J. P. }

FORMS.

(No. 2.)

Warrant to apprehend thereon.

_____ } To the Constable of the parish of _____, and to all Constables and
to wit. } others his Majesty's Officers of the Peace for the said county of _____
and others whom this may concern.

Forasmuch as A. B., of, &c., hath this day made complaint and information upon oath before me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, that C. D., of the same parish, [labourer], being a person able to work, and thereby, &c. [here state the offence as it is stated in the information]: there are therefore to command you, in his said majesty's name, forthwith to apprehend and bring before me the body of the said C. D., to answer unto the said complaint, and to be further dealt withal according to law. Herein fail you not. Given under my hand and seal, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

(No. 3.)

Examination of a vagrant on 5 Geo. 4, c. 83, s. 4.

_____ } The examination of C. D., a rogue and vagabond, taken on oath before me,
to wit. } _____, one of his majesty's justices of the peace in and for the said
county, the _____ day of _____, in the year of our Lord one
thousand eight hundred and _____.

Who on his oath saith, that he was born at _____ [and so trace out the history of his life so far forth as to ascertain his last legal place of settlement.]

Conviction thereon.

[The seventeenth section of the act gives the form of a conviction, *ante*, p. 978.]

(No. 4.)

Commitment of an idle and disorderly person under 5 Geo. 4, c. 83.

_____ } To the Constable of _____, in the said county, and to the Keeper of
the House of Correction at _____, in the said county, and to
whom this may concern.

Whereas C. D. was this day duly convicted before me, _____, one of his majesty's justices of our lord the king, assigned to keep the peace of our said lord the king and for the said county of _____, and also to hear and determine divers felonies, trespasses, and other misdemeanors, in the said county committed, of being an idle and disorderly person, for that he, on the _____ day of _____, in the year of our Lord _____, at _____, in the parish of _____, in the said county, did [stating act of vagrancy], contrary to the form of the statute in such case made and provided; and was by me adjudged to be committed for the said offence to the house of correction, there to be kept to hard labour for [not exceeding one calendar month], according to the form of the said statute. There are therefore to command you, the said constable, to convey the same C. D. to the said house of correction, and him to deliver to the keeper thereof, together with this warrant. And I do hereby command you, the said keeper, to receive the said C. D. into your custody, in the said house of correction, and him there safely keep to hard labour. And for so doing this shall be your sufficient warrant. Given under my hand and seal, at, &c., this _____ day of, &c.

(No. 5.)

Commitment of a rogue and vagabond under 5 Geo. 4, c. 83, s. 4.

_____ } To the Constable of _____, in the said county, and to the Keeper of
the House of Correction at _____, in the said county.

Whereas C. D. was this day duly convicted before me, J. P., Esq., one of the justices of our lord the king, assigned to keep the peace of our said lord the king and for the said county of _____, as a rogue and vagabond [or, of being an idle and disorderly person], for that he, the said C. D., on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, at _____, in the parish of _____, in the said county, did [state the act of vagrancy of which the offender is convicted], contrary to the form of the statute in such case made and provided; and was by me adjudged to be committed for the said offence to the house of correction, there to be kept to hard labour for the space of _____.

(a) These are therefore to command you, the said constable, to convey the said C. D.

(a) If an "idle and disorderly person," not exceeding one calendar month;
a "rogue and vagabond," not exceeding three calendar months.

to the said house of correction, and him to deliver to the keeper thereof, together with this warrant. And I do hereby command you, the said keeper, to receive the said C. D. into your custody in the said house of correction, and him there safely keep to hard labour for the space of . And for so doing this shall be your sufficient warrant. Given under my hand and seal, at, &c., this day of, &c.

(No. 6.)

Same as the forms, ante (Nos. 4, 5), *mutatis mutandis*, stating the commitment to be until the next general [or, quarter] sessions of the peace, to be holden at in and for the county of , to be then and there further dealt with according to law. And have you him then there, together with this precept. And for so doing, &c.

Commitment of an incorrigible rogue.

(No. 7.)

_____ } Be it remembered, that on the day of , in the year of the reign of, &c., C. D., of , in the said county of , personally came before me, J. P., Esq., one of the justices of our said lord the king, assigned to keep the peace in and for the said county, and acknowledged himself to owe to our said lord the king the sum of pounds of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said lord the king, his heirs and successors, if he, the said C. D., shall fail in the condition underwritten:

Recognizance to prosecute a vagrant at the sessions, on 5 Geo. 4, c. 83, s. 9.

The condition of this recognizance is such, that, if the above-bound C. D. shall personally appear at the next general [or, quarter] sessions of the peace to be holden at , in and for the said county, and then and there prosecute and give evidence against C. D., for [stating the act of vagrancy of which the offender is convicted], and shall not depart the court without leave thereof, then the above-written recognizance to be void, or else to remain in its full force. Taken and acknowledged, the day and year first above written, before me,

J. P.

Value. Statement of, in Indictment—see **Indictment**, Vol. III. p. 347; **Statement of, in Conviction**—see **Conviction**, Vol. I. p. 823.

Variance. See **Indictment**, Vol. III. p. 347; **Amendment**, Vol. I.

Vegetables. Stealing of—see **Larceny**, Vol. III. p. 565; **Injuries to—Malicious Injuries**, Vol. III. p. 737, 789.

Vellum. See **Stamps**, ante.

Venire. See **Process**, ante, p. 234, 241.

Venue.

IN indictments, see **Indictment**, Vol. III. p. 330 to 335—in convictions, see **Conviction**, Vol. I. p. 820—proof as to, see **Indictment**, Vol. III. p. 335; **Conviction**, Vol. I. p. 820; in a warrant, *post*, p. 986.

Verdict. See *Trial*, *ante*, p. 970; *Jurors*, Vol. III., p. 433 to 438; *Proof of*—see *Evidence*, Vol. II. p. 44.

Verjuice. See *Excise*, Vol. II.

Vestries. See *Poor*, Vol. IV.; *Books of*—see *Evidence*, Vol. II. p. 38, 39.

Victuallers. See *Alshouses*, Vol. I.

Victu. See *Jurors*, Vol. III. p. 420; *Highway*, Vol. III. p. 71.

Vinegar. See *Excise*, Vol. II.

Volunteer Corps. See *Military Law*, Vol. III.

Wages. See *ante*, *Servants*, p. 363, 364.

Waff. See *Estray*, Vol. II.

Wales.

AS to the venue of offences in, see *Indictment*, Vol. III. p. 332.

1 Will. 4, c. 70.
Jurisdiction of
courts at West-
minster extended
to counties pala-
tine, &c.

By the 1 Will. IV. c. 70, intituled, "An Act for the more effectual Administration of Justice in England and Wales," passed the 23d July, 1830, sect. 13, it is enacted, "that, from and after the commencement of this act, his majesty's writ shall be directed and obeyed, and the jurisdiction of his majesty's courts of King's Bench, Common Pleas, and Exchequer, respectively, and of the several judges and barons thereof, shall extend and be exercised over and within the county of Chester and the county of the city of Chester, and the several counties in Wales, in like manner, to the same extent, and to and for all intents and purposes whatsoever, as the jurisdiction of such courts respectively is now exercised in and over the counties of England not being counties palatine, any statute heretofore passed to the contrary notwithstanding; and that all original writs to be issued into the said several counties of Chester, city of Chester, and Wales, shall be issued by the curators for London and Middlesex, and the process and proceedings thereon shall be issued by and transacted with such of the officers of the several courts of King's Bench and Common Pleas as shall be named for that purpose by the chief justices of such courts respectively, each naming for his own court."

Present jurisdic-
tion of counties
palatine and prin-
cipality of Wales
to cease.

Sect. 14. "That all the power, authority, and jurisdiction of his majesty's court of session of the said county palatine of Chester, and of the judges thereof, and of his Court of Exchequer of the said county palatine, and of the chamberlain and vice-chamberlain thereof, and also of his judges and courts of great sessions, both in law and equity, in the principality of Wales, shall

cease and determine at the commencement of this act; and that all suits then depending in any of the said courts, if in equity, shall be transferred, with all the proceedings thereon, to his majesty's Court of Chancery or Court of Exchequer, as the plaintiff, or (in default of his making choice before the last day of next Michaelmas term) as any defendant shall think fit, and if in law, to the Court of Exchequer, there to be dealt with and decided according to the practice of those courts respectively, or of the court from whence the same shall be transferred, according to the discretion of the court to which the same shall be transferred; which court shall, for the purpose of such suits only, be deemed and taken to have all the power and jurisdiction, to all intents and purposes, possessed before the passing of this act by the court from whence such suit shall be removed."

1 Will. 4, c. 70.

Suits to be transferred.

Sect. 15. "Provided, that nothing in this act contained shall be construed to abolish or affect the obligations and duties, or the jurisdiction or rights now lawfully imposed upon, performed, or claimed and exercised by the mayor and citizens of Chester in the courts of the county of the city of Chester, or otherwise, save and except that such writs of error or false judgment as may now by any charter or usage of the said corporation be brought upon the judgments of the said courts, or any of them, before any of the courts abolished by this act, shall hereafter be issued, as in other cases, from inferior courts, and be returnable into his majesty's Court of King's Bench."

Not to affect the rights of the corporation of Chester.

Sect. 16. "That all persons who on or before the passing of this act shall have been admitted as attorneys, and shall then be practising in any of the courts of sessions or great sessions in the county palatine of Chester, or in Wales respectively, shall be entitled, upon the payment of 1s., to have their names entered upon a roll to be kept for that purpose in each of the superior courts of Westminster, and thereupon be allowed to practise in such courts in all actions and suits against persons residing, at the commencement of the suit, within the county of Chester or principality of Wales; and that all persons having served, or now actually serving, as clerks to such attorneys under articles, and who would otherwise be entitled to be admitted as attorneys of the said courts of great sessions, may, on or before the expiration of six months after the passing of this act, be admitted as attorneys of the said courts at Westminster, for the purpose of practising there, in the like matters only, without payment of any greater duty than would be now payable by law upon their admission as attorneys of such courts of great sessions respectively."

Attorneys of courts of great sessions allowed to practise, on payment of certain fees.

Sect. 17. "That all attorneys and solicitors now actually admitted and practising in any of the said courts of sessions or great sessions may be admitted as attorneys of the said courts at Westminster, in like manner as is now or may be hereafter prescribed for the admission of other persons as attorneys therein, upon payment of such sum for duty, in addition to the sum already paid by them in that behalf, as shall, together with such latter sum, amount to the full duty required upon admission of attorneys in the said courts at Westminster; and that all persons having served, or now actually serving, under articles as clerks to such attorneys or solicitors of any of the said courts of sessions or great sessions, may, at the expiration of their respective times of service, be admitted as attorneys of the said courts at Westminster, in like manner, and upon payment of the like duty, as if they had served under articles as clerks to attorneys of the last-mentioned courts."

Attorneys of great sessions may be admitted as attorneys at Westminster.

Sect. 19. "That, from and after the time herein appointed for the commencement of this act, assizes shall be held for the trial and despatch of all matters, criminal and civil, within the county of Chester and the several counties and county towns in the principality of Wales, under and by virtue of commissions of assize, oyer and terminer, gaol delivery, and other writs and commissions, to be issued in like manner and form as hath been usual for the counties in England; and all laws and statutes now in force relating to the execution of such commissions, when issued for counties in England, shall extend and be applied to the execution of the commissions issued for the county of Chester and the counties of Wales under the authority of this act."

Assizes to be held in Chester and Wales.

Sect. 20. "That, until it shall be otherwise provided by law, one of the two judges appointed to hold the sessions of assizes under his majesty's commission

Mode of holding assizes in Chester and Wales until his majesty shall otherwise direct.

Warrant of Apprehension.

1 Wil. 4, c. 70.

within the county of Chester and principality of Wales shall, in such order and at such times as they shall appoint, proceed to hold such assizes at the several places where the same have heretofore been most usually held within South Wales; and the other of such judges shall proceed to hold such assizes at the several places where the same have heretofore been most usually held in North Wales; and both of such judges shall hold the assizes in and for the county of Chester in like manner as in other counties of England."

Records of the several courts abolished to be kept as heretofore, until otherwise provided for.

Sect. 27. "That the records, muniments, and writings of the several courts abolished by this act shall, until otherwise provided by law, be kept by the same persons and in the same places as before the passing of this act; and that the Court of Common Pleas shall have the like power and authority to amend the records of fines and recoveries passed heretofore in any of the courts abolished by this act, as if the same had been levied, suffered, or had in the Court of Common Pleas: provided always, that in case of the death of any such person before any other provision shall have been made for keeping such records, muniments, and writings, the custody thereof shall be with the clerks of the peace of the several counties to which counties the same shall respectively belong."

For passing accounts of sheriffs of county of Chester and principality of Wales.

Sect. 33. "That the clerk of assize, within ten days after the conclusion of the assizes in the county of Chester, and in each county in Wales, shall make out a roll containing the names and places of residence of all persons liable to the payment of any fines, issues, amercements, recognizances, compositions, or other sums imposed or forfeited during the preceding assizes, with the sums set opposite to each name, and shall forthwith transmit the same to the sheriff, with an order upon the sheriff, signed in the name of one of the judges of assize, directing the sheriff to cause such sums to be levied and recovered from the parties liable to pay the same, which order shall be of the same force and efficacy, and be returnable to the same person or persons, as any writ or process heretofore issued to the sheriff for the like purpose; and the sheriff, upon the receipt thereof, shall proceed to levy the sums in the said roll mentioned, and shall be accountable for the same, and all arrears thereof, in the same manner, at the same time, and to the same officer, and shall pass his accounts before the same officer or officers, as he hath been heretofore accustomed."

When quarter sessions are to be held.

Sect. 35. "That, in the year of our Lord 1831, and afterwards, the justices of the peace in every county, riding, or division for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh day of October, in the first week after the twenty-eighth day of December, in the first week after the thirty-first day of March, and in the first week after the twenty-fourth day of June; and that all acts, matters, and things done, performed, and transacted at the times appointed by this act for the holding of the general quarter sessions of the peace shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this act."

Warrant of Apprehension.

Warrants.

AS to warrant of commitment, see *Commitment*, Vol. I.

As to search-warrants, see *Search-Warrant*, *ante*.

As to arrests without warrant, see *Arrest*, Vol. I.

I. *When necessary, and when to be granted, and how*, p. 985.

II. *Form of Warrant*, p. 986.

[5 Geo. IV. c. 18.]

III. *Backing of Warrants, &c.* p. 988.

[24 Geo. II. c. 55; 13 Geo. III. c. 31; 44 Geo. III. c. 92; 45 Geo. III. c. 92; 48 Geo. III. c. 58; 54 Geo. III. c. 186.]

IV. *Mode of executing, and herein of breaking open Doors, &c., p. 993.*

WHEN NECESSARY, AND WHEN TO BE GRANTED.

V. *What to be done after Execution, p. 997.*I. *When necessary, and when to be granted.*

We have already pointed out who may be arrested, and for what crimes, at what time, in what places, and by whom. See *Arrest*, Vol. I.

Who may be arrested, and for what.

We have also seen as to when a party may be arrested without a warrant: see *Arrest*, Vol. I. In general, it is best to obtain a warrant, if there be time: 1 *Chit. C. L.* 15. Magistrates, however, seldom grant a warrant in the first instance in cases of misdemeanor, unless in aggravated cases, or where there is a likelihood of the party's absconding, if he be apprized of the complaint being made against him: in ordinary cases, it is most usual to issue a summons in the first instance, and if that be disobeyed, then to issue a warrant. See 2 *Barnard.* 34, 77, 101.

Arrest without warrant.

Summons, when most proper.

In all cases where the king is no party, or where no corporal punishment is appointed, as in cases for servants' wages and the like, a summons is the more proper process, and for default of appearance the justice may proceed; and so indeed oftentimes it is directed by special statutes.

If a justice see a felony or other breach of the peace committed in his presence, he may in his own person apprehend the felon. And so he may by word command any person to apprehend him, and such command is a good warrant without writing: but, if the same be done in his absence, then he must issue his warrant in writing. 2 *Hale*, 86; *Dalt. c.* 169.

Justice arresting without warrant.

A warrant may be granted by the privy council or secretaries of state, *Fortescue*, 140, *Lord Raym.* 65; by the speaker of the House of Commons, 14 *East*, 163, or Lords, 8 *T. R.* 314; by justices of gaol delivery, 1 *Leach*, 116, or oyer and terminer, *Hale*, 599; justices at sessions, *ib.*; or by a judge of the Court of King's Bench, 1 *Hale*, 578; 2 *Barnard.* 28. But warrants are most usually granted by a single justice of the peace. 4 *Bla. Com.* 290; 1 *Chit. C. L.* 34.

Warrant, by whom granted.

In all cases of treason, felony, or actual breach of the peace, a magistrate may, on a proper charge made, or on his own view, issue a warrant to apprehend the suspected offender. 2 *Hale*, 72, 78; 2 *Haw. c.* 12; *Butt v. Conant*, 1 *B. & B.* 548. Also, for every misdemeanor or offence indictable at sessions, and which subjects the delinquent to corporal punishment, though it does not amount to a breach of the peace, a justice of the peace may issue his warrant to apprehend the charged offender, on the ground that the law impliedly affords power to issue a warrant, when it gives jurisdiction over the offence; and perjury, and libels, and nuisances, when persisted in, subject the offender to such criminal process. 1 *Chit. C. L.* 13; *Butt v. Conant*, 1 *B. & B.* 548; 4 *Moore*, 195, S.C.; 2 *Haw. c.* 13; 12 *Rep.* 131. And there are some misdemeanors for which particular acts of Parliament expressly authorize a justice of the peace to issue his warrant.

When may be granted.

Lord *Hale* proves at large, contrary to the opinion of Lord *Coke* (4 *Inst.* 177), that a justice hath power to issue a warrant to apprehend a person suspected of felony, before he is indicted; and that though the original suspicion be not in himself, but in the party that prays his warrant. 2 *Hale*, 107, 110. See Vol. III. p. 469. For the justices are judges of the reasonableness of the suspicion, and when they have examined the party accusing touching the reasons of his suspicion, if they find the causes of suspicion to be reasonable, it is now become the justices' suspicion as well as their's. 2 *Hale*, 79, 80. And in another place, speaking of this opinion of Lord *Coke*, he delivers himself seemingly with a kind of warmth not usual to him: "I think," says he, "the law is not so, and the constant practice, in all cases, hath obtained against it, and it would be pernicious to the kingdom if it should be as Lord *Coke* delivers it; for malefactors would escape unexamined and undiscovered, for a man may have a probable and strong presumption of the guilt of a person, whom

Upon suspicion.

FORM OF
WARRANT.

yet he cannot positively swear to be guilty." 1 *Hale*, 579. Mr. *Hawkins* likewise seems to be of the same opinion against Lord *Coke*, but delivers himself with his wonted caution and candour. "It seems probable," he says, "that the practice of justices of the peace, in relation to this matter, is now become a law, and that a justice may justify the granting of a warrant for the arrest of any person, upon strong grounds of suspicion, for a felony, or other misdemeanor, before any indictment hath been found against him; yet in so much as justices claim this power rather by connivance than any express warrant of law, and since the undue execution of it may prove so highly prejudicial to the reputation as well as the liberty of the party, a justice cannot well be too tender in his proceedings of this kind, and seems to be punishable not only at the suit of the king, but also of the party grieved, if he grant any such warrant groundlessly and maliciously, without such a probable cause as might induce a candid and impartial man to suspect the party to be guilty." 2 *Haw. c.* 13, s. 18.

Examination of
witnesses.

Before a justice of peace grants a warrant for the apprehension of an offender, it is prudent, in all cases, especially in cases of felony, to examine the person requiring the warrant, or his witnesses, upon oath. And if, upon such examination, it appear either that the party has actually committed the offence imputed to him, or that there are reasonable grounds to suspect him of having committed it, the justice should grant the warrant. *Arch. Forms of Conviction*, §c. 1 *Chit. C. L.* 31; 1 *Hale*, 582; 2 *Hale*, 111.

Liability of ma-
gistrate.

See the mode of conducting such examination, title *Examination*, Vol. II.

If a magistrate should grant his warrant, without an oath of circumstance affording a reasonable suspicion of the guilt, and the party prove to be innocent, the magistrate will be liable to an action of trespass, at the suit of the individual aggrieved. 2 *Burr.* 1117; 2 *Atk.* 70.

II. Form of Warrant.

Style of.

The warrant may be styled in divers manners: as, 1st. In the name of the king; and yet the *teste* must be under the name of the justice that grants it out. Or, 2ndly. It may be styled or made only in the name of the justice. Or, 3rdly. It may be made without any style, and only under the *teste* of the justice, or only subscribed by him.

Venue in margin.

The warrant of a judge extends over all England, and is tested England; but that of a magistrate is tested of the particular county or precinct over which his jurisdiction extends. 4 *Bl. Com.* 291; *Fortes.* 143.

Mr. *Dalton* says, "the warrant is the better if it bear date of the place where it is made." *Dalt. c.* 169.

And Lord *Hale* says, "the place, though it must be alleged in pleadings, need not be expressed in the warrant." 2 *Hale*, 111.

And Mr. *Hawkins* says, "It is safe, but perhaps not necessary, in the body of the warrant, to show the place where it was made: yet it seems necessary to set forth the county, in the margin at least, if it be not set forth in the body." 2 *Haw. c.* 13, s. 23.

Direction of.

It may be directed to the sheriff, bailiff, constable, or to any indifferent person, by name, who is no officer; for the justice may authorize any one to be his officer, whom he pleases to make such; yet it is most advisable to direct it to the constable of the precinct wherein it is to be executed, for no other constable, and, *a fortiori*, no private person, is compellable to serve it. 2 *Harc.* c. 13, s. 27; *Dalt. c.* 169; 2 *Hale*, 110.

But in the case of an act of Parliament, it is said, that if the act direct that a justice shall grant a warrant, and do not say to whom it shall be directed, by consequence of law, it must be directed to the constable, and it cannot be directed to the sheriff, unless such power be given in the act. 2 *Ld. Raym.* 1192; 2 *Salk.* 381; *sed vide* 1 *H. Bla.* 15, n.

In *R. v. Weir and others*, 1 *B. & C.* 288, 2 *D. & R.* 444, *S. C.*, a warrant of distress for a poor's rate, directed to the constables of Woolwich, without naming them as individuals, was held not legally executed by them out of their jurisdiction, viz. in St. Paul's, Deptford. Now, however, by the 5 *Geo.*

IV. c. 18, s. 6, constables may execute warrants out of *their* precincts, provided the place in which such warrants are executed be within the jurisdiction of the justice granting or backing the same. See *Arrest*, Vol. I.; *Constable*, Vol. I.

The warrant ought regularly to mention the name of the party to be attached, and must not be left in general, or with blanks to be filled up by the party afterwards. 2 *Hale*, 114; *Dalt.* c. 169; and see *Burdett v. Fern*, 2 *Wils.* 47; *Housin v. Burrow*, 6 *T. R.* 122.

If the name of the party to be arrested be unknown, the warrant may be issued against him, by the best description the nature of the case will allow, as "the body of a man whose name is unknown, but whose person is well known, and who is employed as the driver of cattle, and wears a badge, No. 573." 1 *Hale*, 577. If there be a mistake in the name of the supposed offender, or if the name of the officer be inserted without authority, and after the issuing of the warrant, or if the officer exceed the limits of his authority, and be killed, this will amount to no more than manslaughter in the person whose liberty is thus invaded. *Fost.* 312; 6 *T. R.* 236. But if the warrant be filled up by the magistrate before he issues it, though after he signed it, the proceeding is regular, and killing the officer endeavouring to arrest the party is murder. 8 *T. R.* 455; 2 *Leach*, 929.

A general warrant, upon a complaint of robbery, to apprehend *all persons suspected*, and to bring them before a justice, hath been ruled void; and false imprisonment lies against him that issues such a warrant. 1 *Hale*, 580; 2 *Hale*, 112. So, a general warrant to apprehend the authors, printers, and publishers of a libel, without naming them, is illegal. *Money v. Leach*, 1 *Bl. Rep.* 555; 19 *Howell's St. Tr.* 1002.

General warrants, to take up loose, idle, and disorderly people, 3 *Burr.* 1766, and search-warrants, 2 *Haw.* c. 13, s. 11, are the only exceptions to this rule.

Regularly, the warrant, if it be for the peace or good behaviour, or the like, where sureties are to be found or required, ought to contain the special cause and matter whereupon it is granted, to the intent that the party upon whom it is to be served may provide his sureties ready, and take them with him to the justice to be bound for him; but if the warrant be for treason, murder, or felony, or other capital offence, or for great conspiracies, rebellious assemblies, or the like, it hath been said that it needeth not to contain any special cause, but the warrant of the justice may be to bring the party before him, *to make answer to such things or matters generally as shall be objected against him on the king's behalf.* *Dalt.* c. 169; 2 *Haw.* c. 13, s. 25; 2 *Hale*, 111; 1 *Chit. C. L.* 41.

But Mr. *Lombard* says, "every warrant made by a justice of the peace ought to comprehend the special matter upon which it proceedeth; even as all the king's writs do bear their proper cause in their mouth with them: and, as for the form that is commonly used, *to answer to such things as shall be objected*, and such like, they were not fetched out of the old learned precedents, but lately brought in by such as either knew not, or cared not, what they writ." *Lamb.* 87; and see 1 *Chit. C. L.* 41.

For the concise mode of describing the offence, see *Commitment*, Vol. I. 69 to 972.

The warrant is not returnable at any particular time, but continues in force until it is fully executed and obeyed, though it were seven years, provided the magistrate so long live. Per Lord *Kenyon*, C. J., *Dickenson v. Brown*, 2 *Keble's N. P.* 234; 1 *Esp.* 218, S. C.

A warrant to arrest the party, "to the end that he may become bound, &c." appear at the next sessions," &c. means the next sessions after the arrest, and not after the date of the warrant. Therefore, the officer executing it may satisfy an arrest after the sessions next ensuing the date of the warrant. *Maynor v. Parker and others*, 8 *T. R.* 110.

The warrant need not be returnable at a place certain. 4 *Bl. Com.* 291.

The warrant may issue to bring the party before the justice who granted the warrant specially, and then the officer is bound to bring him before the same justice; but if the warrant be to bring him before any justice, then it is in the election of the officer to bring him before what justice of the county he thinks fit, and not in the election of the prisoner. 1 *Hale*, 582; 2 *Hale*, 112.

FORM OF WARRANT.

5 Geo. 4, c. 18.

Name of offender.

General warrant.

Statement of offence.

Return of warrant.

Before what justice.

BACKING OF
WARRANTS,
&c.

Date and place.

It ought to set forth the year and day wherein it is made, that, in an action brought upon an arrest by virtue of it, it may appear to have been prior to such arrest; and also, in case where the statute directeth the prosecution to be within such a time, that it may appear that the prosecution is commenced within such time limited: likewise, where a penalty is given to the poor of the parish where the offence shall be committed, or the like, it ought to specify the place where the offence was committed. 2 *Haw. c. 13, s. 22.*

And it is in general better to state the place where the warrant is made. *Dult. c. 169.*

Hand and seal of
justice.

It ought to be under the hand and seal of the justice who makes it out. 2 *Haw. c. 13, s. 21*; 2 *Saun. 305, n. 13.* But a warrant under the hand of the justice is sufficient, without being under seal, unless particularly required by act of Parliament. *B. N. P. 83*; and *Padfield v. Cabell, Will. 411.*

III. Backing of Warrants, &c. (a)

[24 *Geo. II. c. 55*; 13 *Geo. III. c. 31*; 44 *Geo. III. c. 92*; 45 *Geo. III. c. 92*;
48 *Geo. III. c. 58*; 54 *Geo. III. c. 186*]

The warrant of a magistrate cannot be executed out of his county, unless it be *backed*: that is, indorsed by a justice of the county in which it is to be carried into execution. 2 *Hale, 115.*

Person being out
of the jurisdic-
tion of the ju-
stice, who shall
grant a warrant,

how to be dealt
with.

By the 24 *Geo. II. c. 55, s. 1*, it is enacted, that "in case any person, against whom a warrant shall be issued by any justice or justices of the peace of any county, riding, division, city, liberty, town, or place within this kingdom, shall escape, go into, reside, or be in any other county, riding, division, city, liberty, town, or place out of the jurisdiction of the justice or justices granting such warrant as aforesaid, it shall and may be lawful for any justice or justices of the peace of the county, riding, division, city, liberty, town, or place where such persons shall escape, go into, reside, or be, and such justice or justices is and are hereby required, upon proof being made upon oath, of the hand-writing of the justice or justices granting such warrant, to indorse his or their name or names on such warrant, which shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, to execute such warrant in such other county, riding, division, city, liberty, town, or place out of the jurisdiction of the justice or justices granting such warrant as aforesaid, and to apprehend and carry such offender or offenders before the justice who indorsed such warrant, or some other justice or justices of such other county, riding, division, city, liberty, town, or place where such warrant was indorsed, in case the offence for which such offender shall be so apprehended in such other county, riding, division, city, liberty, town, or place, as aforesaid, shall be bailable in law, and such offender shall be willing and ready to give bail, for his appearance at the next assizes or general gaol delivery, or next general quarter-sessions of the peace, to be held in and for the county, riding, division, city, liberty, town, or place where the offence was committed, such justice or justices of such other county, riding, division, city, liberty, town, or place before whom such offender or offenders shall be brought, shall and may take bail of such offender or offenders, for his or their appearance at the next assizes or general gaol delivery, or at the next general quarter-sessions of the peace to be held in and for the county, riding, division, city, liberty, town, or place where such offence was committed, in the same manner as the justices of the peace of the proper county, riding, division, city, liberty, town, or place should or might have done in such proper county, riding, division, city, liberty, town, or place; and the justice or justices of such other county, riding, division, city, liberty, town, or place, so taking bail as aforesaid, shall deliver the recognizance, together with the examination or confession of such

Recognizance,
&c., delivered to
constable,

to be delivered
over to the clerk
of assizes, or
clerk of the peace.

(a) By a bill now before Parliament, it is proposed to do away with the necessity of backing warrants, &c.

offender or offenders, and all other proceedings relating thereto, to the constable, tithingman, or other person or persons so apprehending such offender or offenders as aforesaid, who are hereby required to receive the same, and to deliver over such recognizance, examination, and other proceedings, to the clerk of assizes, or clerk of the peace of the county, riding, division, city, liberty, town, or place where such offender or offenders is or are required to appear by virtue of such recognizance; and such recognizance, examination, or confession shall be as good and effectual in law, to all intents and purposes, and of the same force and validity, as if the same had been entered into, taken, or acknowledged before a justice or justices of the peace in and for the proper county, riding, division, city, liberty, town, or place where the offence was committed, and the same proceedings shall be had thereon; and in case such constable, tithingman, or other person to whom such recognizance, examination, confession, or other proceedings shall be so delivered as aforesaid, shall refuse or neglect to deliver over the same to the clerk of assizes, or clerk of the peace of the county, riding, division, city, liberty, town, or place where such offender is required to appear by virtue of such recognizance, such constable, tithingman, or other person shall forfeit the sum of 10*l.*, to be recovered against him by bill, plaint, or information, in any of his majesty's courts at Westminster, by any person or persons who will prosecute or sue for the same; wherein no essoin, protection, or wager of law shall be allowed, or more than one imparlance; and in case the offence for which such offender or offenders shall be apprehended and taken in any other county, riding, division, city, liberty, town, or place shall not be bailable in law, or such offender or offenders shall not give bail for his appearance at the next assizes or general gaol delivery, or next general quarter-sessions of the peace, to be held in and for the county, riding, division, city, liberty, town, or place where the offence was committed, to the satisfaction of the justice before whom such offender or offenders shall be brought in such other county, riding, division, city, liberty, town, or place; then, and in that case, the constable, tithingman, or other person or persons so apprehending such offender or offenders, shall carry and convey such offender or offenders before one of his majesty's justices of peace of the proper county, riding, division, city, liberty, town, or place where such offence was committed, there to be dealt with according to law."

And the justice may further order (if he think fit) the party, according as he shall appear bailable or not bailable upon the face of the warrant, to be brought before himself, or some other justice or justices of that county, or to be carried back into the county from whence the warrant did issue.

The magistrate cannot exercise a discretion in this matter; but he must back the warrant, if oath be duly made of the hand-writing of the justice who granted it. *R. v. Kynaston, 1 East, 117.*

Also, by the 13 Geo. III. c. 31, s. 1, "if any person or persons against whom a warrant shall be issued by any justice or justices of peace of any county, riding, division, city, liberty, town, or place, within that part of Great Britain called England, for any crime or offence against the laws of that part of the United Kingdom, shall escape, go into, reside, or be in any place of that part of Great Britain called Scotland, it shall and may be lawful for the sheriff, or steward depute or substitute, or any justice of peace of the county or place where such person or persons shall escape, go into, reside, or be, to indorse his name on the said warrant, which warrant, so indorsed, shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed; and also to all sheriffs' officers, stewards' officers, constables, and other peace-officers of the county or place where such warrant shall be so indorsed, to execute the said warrant in the county or place where it is so indorsed, by apprehending the person or persons against whom such warrant is granted, and to convey him, her, or them into the county, riding, division, city, liberty, town, or place of that part of Great Britain called England, being adjacent to that part of Great Britain called Scotland, in which the crime was committed, and before one of the justices of peace of such county, riding, division, city, liberty, town, or place, to be there dealt with according to law; or in case the crime was com-

BACKING WAR-
RANTS, &c.
24 Geo. 2, c. 55.

Constable not
delivering over.

Penalty.

If offence not
bailable, &c.

How offender to
be dealt with.

How persons
escaping into
Scotland may
be conveyed into
county where
offence commit-
ted.

BACKING WAR-
RANTS, &c.
13 Geo. 3, c. 31.

22 Geo. 2, c. 55.

Persons guilty of
like crimes in
Scotland, may
be apprehended
and returned.

Expense of re-
moving prisoners,
how defrayed.

Offenders es-
caping from Ire-
land into Great
Britain may be
apprehended,
and conveyed to
Ireland.

mitted in a county not next adjacent to that part of Great Britain called Scotland, then, and in every such case, to convey him, her, or them into any county of that part of Great Britain called England, next adjacent to that part of Great Britain called Scotland, and before one of the justices of peace of such county, which justice of peace is hereby authorized and required to proceed with regard to such person or persons, in the manner directed by an act made in the twenty-fourth year of the reign of his majesty King George the Second, intituled, 'An Act for amending and making more effectual a Clause in an Act passed in the last Session of Parliament, for the apprehending of Persons in any County or Place, upon Warrants granted by Justices of the Peace of any other County or Place,' as if the said person or persons had been apprehended in the said county."

Sect. 2. "That, from and after the passing of this act, if any person or persons against whom a warrant shall be issued by the lord justice-general, lord chief-justice clerk, or any of the lords commissioners of judiciary, or by any sheriff, or steward-depute, or substitute, or justice of the peace of that part of Great Britain called Scotland, for any crime or offence against the laws of that part of the United Kingdom, shall escape, go into, reside, or be in any place of that part of Great Britain called England, it shall and may be lawful for any justice of peace of the county, riding, division, city, liberty, town, or place where such person or persons shall escape, go into, reside, or be, to indorse his name on the said warrant, which warrant, so indorsed, shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed; and also to all constables or other peace-officers of the county, riding, division, city, liberty, town, or place where such warrant shall be so indorsed, to execute the said warrant in the county, riding, division, city, liberty, town, or place where it is so indorsed, by apprehending the person or persons against whom such warrant is granted, and to convey him, her, or them into the county or place of that part of Great Britain called Scotland, being adjacent to that part of Great Britain called England, where the crime was committed; and before the sheriff, or steward-depute, or substitute, or one of the justices of the peace of such county or place, to be there dealt with according to law; or in case the crime was committed in a county not next adjacent to that part of Great Britain called England, then, and in such case, to convey him, her, or them into any county of that part of Great Britain called Scotland, next adjacent to that part of Great Britain called England, and before the sheriff or steward-depute, substitute, or one of the justices of the peace of such county, which sheriff, steward, or justice of the peace is hereby required to proceed with regard to such person or persons according to the rules and practice of the law of Scotland, as if the said person or persons had been apprehended in the said county."

Sect. 3. "That the expense of removing prisoners as aforesaid shall be repaid to the person defraying the same, by the treasurer of the county of that part of Great Britain called England, or by the sheriff, or steward-depute or substitute of the county of that part of Great Britain called Scotland, in which the crime was committed; the amount of that expense being previously ascertained by an account thereof, verified upon oath before two of the justices of the peace of such county, and allowed and signed by them."

The 44 Geo. III. c. 92, s. 3, enacts, that "if any person or persons against whom a warrant shall be issued by any of the judges of his majesty's Court of King's Bench, or any justice of oyer and terminer or gaol delivery, or any justice or justices of the peace, or other person having authority to issue the same within Ireland, for any crime or offence against the laws in force in Ireland, shall escape, go into, reside, or be in any place in England or Scotland respectively, it shall and may be lawful for any justice of the peace of the county, stewardry, riding, division, city, liberty, town, or place, in England or Scotland respectively, whither or where such person or persons shall escape, go into, reside, or be, to indorse his name on such warrant, which warrant, so indorsed, shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables or other peace-officers of the county, stewardry, riding,

division, city, liberty, town, or place, where such warrant shall be so indorsed, to execute the said warrant in the county, riding, division, city, liberty, town, or place, where it is so indorsed, by apprehending the person or persons against whom such warrant is granted, and to convey him, her, or them by the most direct way into Ireland, and before one of the justices of the peace of the county in Ireland, living near the place and in the county where he, she, or they shall arrive and land; which justice of the peace is hereby required to proceed with regard to such person or persons as if the said person or persons had been legally apprehended in the said county in Ireland."

By sect. 4 the same provision is made as to offenders escaping from England or Scotland into Ireland, being apprehended and conveyed back again to England or Scotland.

By the 45 Geo. III. c. 92, s. 1, after reciting the 13 Geo. III. c. 31, and 44 Geo. III. c. 92, and that there is no provision in the said acts for admitting to bail persons so apprehended for bailable offences, it is enacted, "that in case any person or persons shall be apprehended in one of the said parts of the United Kingdom for an offence which was committed, or charged to have been committed, in either of the other parts of the same, under any warrant indorsed in such manner as is in that respect provided by virtue of either of the said recited acts, such person or persons shall and may be taken before the judge or justice who indorsed the said warrant, or before some other justice or justices of the county, stewardry, city, liberty, town, or place where the same was indorsed; and in case the offence be bailable in law, and such offender or offenders shall be willing and ready to give bail for his, her, or their appearance, according to the exigence of the said warrant, such judge or justice or justices by whom such warrant was indorsed, or before whom any such offender or offenders shall be brought, shall and may proceed with such offender or offenders, and take bail for him, her, or them, according to the exigence of the said warrant, in the same manner as the judge or justice who originally issued the same should or might have done; and such judge or justice or justices so taking bail as aforesaid shall take the recognizance or bail-bond of the said offender or offenders, and of his, her, or their bail, in duplicate, and shall deliver one of such duplicates to the constable, or other officer or officers, or person or persons so apprehending such offender or offenders as aforesaid, who are hereby required to receive the same, and to deliver, or cause to be delivered, such recognizance or bail-bond to the clerk of the crown, or clerk of the peace, or other proper officer for receiving the same, belonging to the court in which by such recognizance or bail-bond such offender or offenders shall be bound to appear, and such recognizance or bail-bond shall be as good and effectual in law, to all intents and purposes, and of the same force and validity, as if the same had been entered into, taken, or acknowledged before a judge or justice or justices of the peace of the county, stewardry, city, town, liberty, or place, where the offence was committed; and the said judge or justice or justices so taking bail as aforesaid, shall transmit the other of such duplicates to the Court of Exchequer of such part of the United Kingdom in which such bail shall be taken, there to be kept of record; and it shall and may be lawful for the court, in which any person so bound to appear shall forfeit his or her said recognizance or bail-bond, to transmit a certificate, testifying the forfeiture thereof, under the seal of the court, or under the hand and seal of one of the judges or justices of the same, to the Court of Exchequer, in that part of the United Kingdom in which such recognizance or bail-bond shall have been taken; and it shall and may be lawful for such Court of Exchequer to proceed upon such certificate to levy the sum so forfeited, in the same manner in which they may proceed upon any recognizance or bail-bond, taken and forfeited within the same part of the United Kingdom, and estreated due course into the said court: provided always, that if such offence be not bailable in law, or such offender or offenders shall not give bail for his, her, or their appearance, according to the exigence of such warrant, the said judge or justice or justices before whom such offender or offenders shall be brought, shall remand him, her, or them to the custody of the constable or other officer or person who shall have apprehended such offender or offenders, and such

BACKING WARRANTS, &c.

44 Geo. 3, c. 92.

45 Geo. 3, c. 92.

Parties apprehended in one part of the United Kingdom for offences charged to be committed in any other part thereof, shall be admitted to bail, and duplicates of the bail-bond shall be delivered, one to the officer apprehending, and the other to the Court of Exchequer, &c.

Parties not bailable, nor bailed, shall be remanded to custody as under recited acts.

BACKING WARRANTS, &c.

45 Geo. 3, c. 92.

The judge, &c., granting the original warrant, shall write "not bailable," on the face of the warrants for offences not bailable, &c.

Service of subpoena on parties or witnesses in any part of the United Kingdom, shall be valid to compel appearance in any other part.

Expense of attendance on writs of subpoena shall be tendered to witnesses.

Warrants indorsed and acted upon in either country.

13 Geo. 3, c. 31, ss. 1, 2.

constable, officer, or other person shall proceed to convey such offender or offenders into that part of the United Kingdom wherein the offence was committed, by such ways and means as are provided by the said recited acts respectively."

Sect. 2. "And whereas it may happen, by reason of the difference in the law prevailing in the said different parts of the United Kingdom, that the judge or justice or justices before whom any offender or offenders shall be brought, under such warrant so indorsed, may not know whether the offence mentioned in such warrant be or be not bailable; for the better information, therefore, of such judge, or justice or justices, in that particular," be it enacted, "that, in case any person suing out such warrant shall show, by affidavit or otherwise, to the satisfaction of the judge or justice granting such warrant, that it may be necessary to execute such warrant in a part of the United Kingdom different from that in which such warrant is issued, and it shall appear also to the judge or justice granting such warrant, that it is granted for an offence for which it would not be lawful for any judge, or justice or justices, before whom such offender or offenders might be brought, by reason of the indorsement of such warrant, as directed by the said recited acts, to admit such offender or offenders to bail, such judge or justice granting such warrant shall, upon the face of such warrant, write the words 'not bailable'; and, in all cases in which such words shall not have been so written, it shall and may be lawful for the judge, or justice or justices, before whom any offender or offenders may be brought, under such warrant so indorsed, to admit such offender or offenders to bail."

Sect. 3. "And whereas it is fit to provide for the appearance of persons to answer in cases where warrants are not usually issued, and to give evidence in criminal prosecutions in every part of the United Kingdom;" it is enacted, "that the service of every writ of subpoena or other process upon any person, in any one of the parts of the United Kingdom, requiring the appearance of such person to answer or give evidence in any criminal prosecution in any other of the parts of the same, shall be as good and effectual in law as if the same had been served in that part of the United Kingdom where the person so served is required to appear; and, in case such person so served shall not appear, according to the exigence of such writ or process, it shall be lawful for the court out of which the same issued, upon proof made of the service thereof, to the satisfaction of the said court, to transmit a certificate of such default, under the seal of the same court, or under the hand of one of the judges or justices of the same, to the Court of King's Bench in England, in case such service was had in England, or, in case such service was had in Scotland, to the Court of Justiciary in Scotland, or, in case such service was had in Ireland, to the Court of King's Bench in Ireland; and the said last-mentioned courts respectively shall and may thereupon proceed against and punish the person so having made default, in like manner as they might have done if such person had neglected or refused to appear in obedience to a writ of subpoena or other process issued out of such last-mentioned courts respectively."

Sect. 4. "That none of such last-mentioned courts shall, in any case, proceed against or punish any person for having made default, by not appearing to give evidence in obedience to any writ of subpoena or other process for that purpose, unless it shall be made to appear to such court that a reasonable and sufficient sum of money to defray the expenses of coming and attending to give evidence, and of returning from giving such evidence, had been tendered to such person at the time when such writ of subpoena or other process was served upon such person."

The 54 Geo. III. c. 186, after reciting the 13 Geo. III. c. 31, 44 Geo. III. c. 92, and 45 Geo. III. c. 92, repeals the fifth and sixth sections of the last-mentioned act, and enacts, sect. 2, "that, from and after the passing of this act, all warrants issued in England, Scotland, or Ireland respectively, may and shall be indorsed and executed, and enforced and acted upon, in any part of the United Kingdom, in such and the like manner as is directed by the said first-recited act of the thirteenth year of the reign of his present majesty, in relation to warrants issued or granted in England and Scotland respectively, as fully and effectually, to all intents and purposes, as if all the provisions of the

said act were in this act severally and separately repeated and re-enacted, and made part of this act, as to every part of the United Kingdom, and as to all justices of the peace, sheriffs' officers, constables, or other officer or officers of the peace in Ireland, as well as in England and Scotland respectively."

MODE OF EXECUTING WARRANT, &c.

Sect. 3. "That it shall be lawful for any judge of any of his majesty's courts of record in Westminster, of the Court of Sessions in the county palatine of Chester, or of any of the courts of great sessions in Wales, or for any judge in any of his majesty's courts of record in Dublin, to indorse any letters of second diligence issued in Scotland, for compelling the attendance of any witness or witnesses resident in England, Wales, or Ireland, upon any criminal trial in Scotland; and such letters shall, upon such indorsement, have the like force and effect as the same would have in Scotland, and shall entitle the bearer thereof to apprehend the witness or witnesses mentioned therein, and to convey such witness or witnesses to Scotland, for the purposes of the trial or trials in respect of which such letters shall have been issued, without any tender of any expense or expenses of any such witness or witnesses; any thing contained in the said last-recited act of the forty-fifth year aforesaid to the contrary notwithstanding."

Judges, in either country, to indorse letters of second diligence.

By the 48 Geo. III. c. 58, s. 2, reciting the provisions of the 13 Geo. III. c. 31, and the 45 Geo. III. c. 92, and that it is expedient that like provisions should be made for the execution in Scotland of warrants to be issued by other persons than justices of the peace having authority to issue the same in England, it is enacted, "that, from and after the passing of this act, all clauses, matters, and things in the said recited acts, whereby the execution in Scotland of any warrant or warrants issued by any justice or justices of the peace in England for any crime or offence against the laws of that part of the United Kingdom is authorized and regulated, shall extend to all warrants issued by any of the justices of his majesty's Court of King's Bench in England, or of the courts of great sessions in Wales, or by any justice of oyer and terminer or gaol delivery, or other person having authority to issue the same in England, for any crime or offence against the laws of England, in as full and ample a manner, to all intents and purposes, as if such last-mentioned justices and persons were specially named in the said recited acts."

Power under recited acts as to execution in Scotland of warrants of justices of peace issued in England, extended to warrants issued by judges of King's Bench, &c.

IV. Mode of executing Warrant, and herein of Breaking open Doors.

The observations already made under title Arrest, as to the mode of arresting a party, will here apply. See that title, Vol. I.

The officer to whom a warrant is directed and delivered ought, with all speed and secrecy, to find out the party, and then to execute the warrant. *Dalt. c. 169.*

To be gone about immediately.

The party to whom the warrant is directed may execute it by arresting the party charged any where within the jurisdiction of the magistrate granting or backing it. 5 *East*, 233; 5 Geo. IV. c. 18, s. 6, Vol. I. p. 799. A warrant to arrest for a felony may be executed in any franchise in the county. 1 *Hale*, 16.

Where to be executed.

A warrant directed to several may be executed by any one of them. 1 *East's* By whom. 2. *C. 320*; 2 *Taun.* 161; *Dalt. c. 169.*

When the party named in the warrant employs others to assist him, he must be so near as to be acting in the arrest, in order to render it legal. *Howp. 66.*

The warrant may be executed at any time while it is in force. 9 *Rep.* 65; *East's P. C.* 324; 3 *Taun.* 14. We have already seen how long it continues in force, *ante*, 987.

Time of execution.

A person may be twice apprehended under the same warrant, if the purposes of the warrant have not been effected. *Peake's Rep.* 234.

A private person cannot raise power to arrest or detain a felon. 1 *Hale*, 11. But any justice, or the sheriff, may take of the county any number that

Taking the power of the county.

MODE OF EXECUTING WARRANT, &c.

he shall think meet, to pursue, arrest, and imprison traitors, murderers, robbers, and other felons, or such as do break or go about to break or disturb the king's peace; and every man, being required, ought to assist and aid them, on pain of fine and imprisonment. *Dalt. c. 171.*

It is not justifiable for a justice, sheriff, or other officer, to assemble the posse *comitatus*, or raise a power or assembly of people, upon their own heads, without just cause. *Dalt. c. 171.*

But, where a justice, sheriff, or other officer, is enabled to take the power of the county, it seemeth they may command and ought to have the aid and attendance of all knights, gentlemen, yeomen, husbandmen, labourers, tradesmen, servants, and apprentices, and of all other persons being above the age of fifteen years, and able to travel. *Dalt. c. 171.*

Women, ecclesiastical persons, and such as be decrepit or diseased, shall not be compelled to attend them. *Id.*

And, in such case, it is referred to the discretion of the justice, sheriff, or other officer, what number they will have to attend on them, and how and after what manner they shall be armed or otherwise furnished. *Id.*

Sheriff may deputate.

If a warrant be directed to the sheriff, he may command his bailiff, under-sheriff, or other sworn and known officer, to serve it, without writing any precept. But if he will command another man that is no such officer to serve it, he must give him a written precept; otherwise an action of false imprisonment will lie. *Lamb. 89.*

But every other person to whom it is directed must personally execute it: yet it seems that any one may lawfully assist him. *2 Haw. c. 14, s. 29.*

Directions of warrant to be observed strictly.

The directions of the warrant must be strictly observed, or the party executing it will not be justified in his acts, and may be treated as a trespasser; as, if the warrant be to arrest A., and he arrest B. See *Com. Dig. Imprisonment, (B.)*; *2 Haw. c. 13, s. 31*; *2 B. & P. 162*; *2 M. & S. 261*; see, also, *Constable, Vol. I.*

Showing the warrant.

A person sworn and commonly known, and acting within his own precinct, need not show his warrant, but he ought to acquaint the party with the substance of it. *2 Haw. c. 13, s. 28.*

An officer giveth sufficient notice what he is when he saith to the party, "I arrest you in the king's name;" and, in such case, the party at his peril ought to obey him, though he knoweth him not to be an officer; and if he have no lawful warrant, the party grieved may have his action of false imprisonment. *Dalt. c. 169.*

But the learned editor of *Hale's* history observes hereupon, that the books referred to intend the general warrant constituting such person an officer, as a bailiff or the like, in a civil action; though it may be otherwise in case of felony, because, in such case, a private person may arrest a felon without any warrant at all. *2 Hale, 116*; *1 id. 458, notis.*

In *Hall v. Roche*, 8 T. R. 188, the doctrine that even a known officer is not obliged to show his authority when demanded, was considered as dangerous, because it may affect the party criminally in case of resistance; and, if homicide ensue, the legality of the warrant enters materially into the merits of the question. And Lord *Kenyon* observed, that he did not think a person so bound to take it for granted, that another who says he has a warrant against him, without producing it, speaks truth.

A warrant was issued to apprehend the plaintiff upon a charge of a conspiracy; a constable went to the plaintiff's house with the warrant, showed it to him, allowed him to take a copy of it, and then was accompanied by the plaintiff to the magistrate, who, after examining him, dismissed him. Trespass for assault and false imprisonment was brought against the magistrate, and a verdict was given for the defendant. Upon showing cause against a rule for setting aside the verdict, Sir *J. Mansfield*, C. J., held, that, as the plaintiff went voluntarily before the magistrate, the warrant being made no other way of than as a summons, this was no arrest, and therefore the verdict was right. *Arrowsmith v. Le Mesurier*, 2 N. R. 211.

But if he act out of his precinct, or be not sworn and commonly known, he

must show his warrant, if demanded. 2 *Haw. c. 13, s. 28*. Otherwise the party may make resistance, and needs not to obey it. *Dalt. c. 169*.

If the constable hath no warrant, but doth it by virtue of his office as a constable, it is sufficient to notify that he is a constable, or that he arrests in the king's name. 1 *Hale, 589*.

In the case of a warrant of distress, issued by a justice of the peace, for levying a pecuniary forfeiture or sum of money, it is specially provided by the 27 Geo. II. c. 20, that the officer executing the same shall, if required, show his warrant to the person whose goods are distrained, and shall suffer a copy thereof to be taken.

In no case is a constable required to part with the warrant out of his own possession; for that is his justification. 1 *East's P. C. 319*; 2 *Ld. Raym. 1196*; 24 Geo. II. c. 44, s. 6, *post*, p. 998.

Constable not to part with warrant.

As to the case of breaking open doors, in order to apprehend offenders, it is to be observed, that the law doth never allow of such extremities but in cases of necessity; and therefore no one can justify breaking open another's door to make an arrest, unless he first signify to those in the house the cause of his coming, and request them to give him admittance. 2 *Haw. c. 14, s. 1*.

In a late case it was decided, that such request was undoubtedly necessary in all cases, where the warrant is for a *misdemeanor*. *Lannock v. Brown, 2 B. & A. 592*; and see *Burdett v. Abbott, 14 East, 163*. *Query*, if it be necessary in all.

Breaking open doors. (a)

No precise form of words is required in a case of this kind: it is sufficient that the party hath notice that the officer cometh not as a mere trespasser, but claiming to act under a proper authority, provided that the officer has a legal warrant. *Fest. 137*.

But where a person authorized to arrest another, who is sheltered in a house, is denied quietly to enter it, in order to take him, it seems generally to be agreed that he may justify breaking open the doors in the following instances:—

1. Upon a *capias* grounded on an indictment for any crime whatsoever; or upon a *capias* from the Chancery or King's Bench, to compel a man to find sureties for the peace or good behaviour, or even upon a warrant from a justice of peace for such purpose. 2 *Haw. c. 14, s. 3*.

2. When one known to have committed a treason or felony, or to have given another a dangerous wound, is pursued either with or without a warrant by a constable or private person; but where one lies under a probable suspicion only, and is not indicted, it seems the better opinion at this day, *Mr. Hawkins* says (*c. 14, s. 7*), that no one can justify the breaking open doors in order to apprehend him. And this opinion he founds on *Coke's 4 Inst. 177*, and *Hale's Pleas of the Crown, 91*.

But upon a warrant for probable cause of suspicion of felony, the person to whom such warrant is directed may break open doors to take the person suspected, if upon demand he will not surrender himself, as well as if there had been an express and positive charge against him; and so (he says) hath the common practice obtained, notwithstanding the contrary opinion of Lord *Coke*; for, in such case, the process is for the king, and therefore a *non omittas* is implied. 1 *Hale, 580, 583*; 2 *Hale, 117*.

And, as he may break open such person's own house, so much more may he break open the house of another to take him; for so the sheriff may do upon civil process; but then he must at his peril see that the felon be there: for, the felon be not there, he is a trespasser to the stranger whose house it is. *Hale, 117*; *Semayne's case, 5 Rep. 92, a*.

But it seems that he that arrests as a *private man*, barely upon suspicion of felony, cannot justify the breaking open of doors to arrest the party suspected, ut he doth it at his peril; that is, if in truth he be a felon, then it is justifiable,

(a) See also 1 *Chit. C. L. 51 to 59*.

MODE OF EXECUTING WARRANT, &c.

Breaking open doors.

but if he be innocent, but upon a reasonable cause suspected, it is not justifiable. 1 *Hale*, 82.

But a constable in such case may justify, and the reason of the difference is this: because in the former case it is but a thing permitted to private persons to arrest for suspicion, and they are not punishable if they omit it; and therefore they cannot break open doors; but in case of a constable, he is punishable if he omit it upon complaint. 2 *Hale*, 92.

And, in general, an officer, upon any warrant from a justice, either for the peace or good behaviour, or in any case where the king is party, may by force break open a man's house, to arrest the offender. *Dalt. c. 169*.

It is justifiable for a private person to break and enter the house of another, and imprison his person, in order to prevent him murdering his wife. *Handcock v. Baker*, 2 B. & P. 260.

3. On a warrant to search for stolen goods, the doors may be broken open, if the goods are there; and if they are not there, the constable seems indemnified, but he that made the suggestion is punishable. 2 *Hale*, 151.

4. Where forcible entry or detainer is found by inquisition before justices of the peace, or appears on their view. 2 *Haw. c. 14, s. 6*.

5. On a *capias utlagatum*, or *capias pro fine*. *Id. s. 2*.

6. On the warrant of a justice of the peace for the levying of a forfeiture, in execution of a judgment, or conviction for it, grounded on any statute, which gives the whole or any part of such forfeiture to the king. *Id. s. 5*.

7. Where an affray is made in a house, in the view or hearing of the constable, he may break open the doors to take them. 1 *Haw. c. 63, s. 16*; 2 *Haw. c. 14, s. 8*.

8. If there be disorderly drinking or noise in a house at an unreasonable time of night, especially in inns, taverns, or ale-houses, the constable, or his watch, demanding entrance, and being refused, may break open the doors, to see and suppress the disorder. 2 *Hale*, 95.

9. Wherever a person is lawfully arrested for any cause, and afterwards escapes, and shelters himself in a house. 2 *Haw. c. 14, s. 9*.

10. But upon a general warrant, without expressing any felony or treason, or surety of the peace, the officer cannot break open a door. 1 *Hale*, 534.

11. Neither ought doors to be broken open to take a person, who is required to take certain oaths by virtue of a statute, because in such case the warrant is not grounded on a precedent offence. 2 *Haw. c. 14, s. 11*; 12 *Rep. 131*.

12. In a civil suit, the officer cannot justify the breaking open an outward door or window, in order to execute process. If he doth, he is a trespasser. But if he findeth the outward door open, and entereth that way, or if the door be opened to him from within, and he entereth, he may break open inward doors, if he findeth that necessary, in order to execute his process. *Fost. 319*; see *Tidd's Prac. 9 ed. 1012*.

For a man's house is his castle, for safety and repose to himself and family; but if a stranger, who is not of the family, upon a pursuit, taketh refuge in the house of another, this rule doth not extend to him,—it is not his castle, he cannot claim the benefit of sanctuary therein. *Fost. 320*. See *Semayne's case*, *ant. p. 995*.

And it is always to be remembered that this rule must be confined to the case of arrest upon process in civil suits only; for, where a felony hath been committed, or a dangerous wound given, or even where a minister of justice cometh armed with process founded on a breach of the peace, the party's own house is no sanctuary for him: in these cases, the justice which is due to the public must supersede every pretence of private inconvenience. *Fost. 320*.

13. Finally, in all these cases, if an officer, to serve any warrant, enter into a house, the doors being open, and then the doors are locked upon him, he may break them open, in order to regain his liberty. 2 *Haw. c. 14, s. 11*.

Killing in the arrest or pursuit.

If there be a warrant against a person for a trespass or breach of the peace, and he fly and will not yield to the arrest, or being taken, make his escape, if the officer kill him, it is murder. 2 *Hale*, 117; 1 *East's P. C. 302*.

But, if such person, either upon the attempt to arrest, or after the arrest

assault the officer, to the intent to make his escape from him, and the officer, standing upon his guard, kill him, this is no felony; for he is not bound to go back to the wall, as in common cases of *se defendendo*, for the law is his protection. 2 *Hale*, 118; 1 *East's P. C.* 302.

But where a warrant issueth against a person for *felony*, and either before arrest or after he flies and defends himself with stones or weapons, so that the officer must give over his pursuit, or otherwise cannot take him without killing him, if he kill him, it is no felony. And the same law is for a constable that doth it by virtue of his office, or on hue and cry. *Id.*

But then there must be these cautions: 1. He must be a lawful officer; or there must be a lawful warrant. 2. The party ought to have notice of the reason of the pursuit,—namely, because a warrant is against him. 3. It must be a case of necessity, and that not such a necessity as in the former case, where an assault is made upon the officer; but this is the necessity,—namely, that he cannot otherwise be taken. 2 *Hale*, 119; 1 *East's P. C.* 312.

If an innocent person be indicted of a felony, where in truth no felony was committed, and will not suffer himself to be arrested by the officer who has a warrant for that purpose, he may lawfully be killed by him, if he cannot otherwise be taken; for there is a charge against him upon record, to which, at his peril, he is bound to answer. 1 *Haw. c.* 28, s. 12. See *Mortimer*, Vol. III.

But though a private person may arrest a felon, and if he fly, so as he cannot be taken without he be killed, it is excusable in this case for the necessity, yet it is at his peril that the party be a felon; for if he be innocent of the felony, the killing (at least before the arrest) seems at least manslaughter; for an innocent person is not bound to take notice of a private person's suspicion. 2 *Hale*, 119.

It is an offence of a very high nature to oppose one who lawfully endeavours to arrest another for *treason* or *felony*; and it seems that a person who so opposes an arrest for treason, whereof he knows the party to have been guilty, is thereby guilty of the treason: and that he who so opposes an arrest for felony is an accessory to the felony. 1 *Haw. c.* 17, s. 1; see *Escape*, Vol. I.; *Rescue*, ante.

Opposing the execution.

It hath been holden, that if a constable, after he hath arrested the party by force of a warrant, suffer him to go at large upon his promise to come again and find sureties, he cannot afterwards arrest him by force of the same warrant: however, if the party return, and put himself again under the custody of the constable, it seems it may be probably argued that the constable may lawfully detain him, and bring him before the justice in pursuance of such warrant; but in this the law doth not seem to be clearly settled. 2 *Haw. c.* 13, s. 9. But if the party arrested do escape, the officer, upon fresh suit, may take him again and again, so often as he escapeth, although he were out of view, or that he shall fly into another town or county. *Dalt. c.* 169; see *Arrest*, Vol. I. p. 257.

Retaking after arrest.

V. What to be done after the Arrest.

We have already considered what is to be done after the arrest; see *Arrest*, Vol. I. p. 266.

What to be done after arrest.

If the arrest be by virtue of a warrant, when the officer hath made the arrest, he is forthwith to bring the party, according to the direction of the warrant. If it be to bring the party before the justice who granted the warrant specially, then the officer is bound to bring him before the same justice; but if the warrant be to bring him before any justice of the county, then it is in the election of the officer to bring him before what justice he thinks fit, and not in the election of the prisoner. *Foster's case*, 5 *Rep.* 59, b.; 1 *Hale*, 582; 2 *Hale*, 112.

By an officer by warrant.

But if the time be unreasonable, as in or near the night, whereby he cannot attend the justice, or if there be danger of a present rescue, or if the party be sick, he may secure him in the stocks, or in a house, till the next day, or such time as it may be reasonable to bring him. 2 *Hale*, 120; see *Arrest*, Vol. I. p. 266.

FORMS.

Returning the
warrant.

And when he hath brought him to the justice, yet he is in law still in his custody till the justice discharge, or bail, or commit him. *Id.*

But it is said, the constable is not obliged to return the warrant itself, but may keep it for his own justification, in case he should be questioned for what he had done, but only to return what he has done upon it. 2 *Ld. Raym.* 1196; 1 *East's P. C.* 319.

Action not to be
brought against
constable till de-
mand made of
copy of warrant,
&c.

And this seems to be implied in the 24 Geo. II. c. 44, s. 6, which enacts, that "no action shall be brought against any constable, headborough, or other officer, or against any person or persons acting by his order and in his aid, for anything done in obedience to any warrant under the hand or seal of any justice of the peace, until demand hath been made or left at the usual place of his abode, by the party or parties intending to bring such action, or by his, her, or their attorney or agent, in writing, signed by the party demanding the same, of the perusal and copy of such warrant, and the same hath been refused or neglected for the space of six days after such demand; and in case, after such demand and compliance therewith, by showing the said warrant to, and permitting a copy to be taken thereof by the party demanding the same, any action shall be brought against such constable, headborough, or other officer, or against such person or persons acting in his aid for any such cause as aforesaid, without making the justice or justices who signed or sealed the said warrant defendant or defendants, that on producing or proving such warrant at the trial of such action, the jury shall give their verdict for the defendant or defendants, notwithstanding any defect of jurisdiction in such justice or justices; and if such action be brought jointly against such justice or justices, and also against such constable, headborough, or other officer, or person or persons acting in his or their aid as aforesaid, then on proof of such warrant the jury shall find for such constable, headborough, or other officer, and for such person and persons so acting as aforesaid, notwithstanding such defect of jurisdiction as aforesaid; and if the verdict shall be given against the justice or justices, that in such case the plaintiff or plaintiffs shall recover his, her, or their costs against him or them, to be taxed in such manner, by the proper officer, as to include such costs as such plaintiff or plaintiffs are liable to pay to such defendant or defendants for whom such verdict shall be found as aforesaid."

(No. 1.)

General warrant
to apprehend a
party.

— } To the Constable of _____, and all other peace-officers in the said
 } county of _____,
Forasmuch as C. D., of _____, in the county aforesaid, [labourer], hath this
day been charged before me, J. P., one of his majesty's justices of the peace for the
county aforesaid, on the oath of a credible witness, for that he, the said C. D., on the
day of _____, in the year of our Lord 1831, at _____,
in the said county, did, &c. [here state the offence]: these are, therefore, to com-
mand you, in his majesty's name, forthwith to apprehend and bring before me, or some
other of his majesty's justices of the peace in and for the said county, the body of the
said C. D., to answer unto the said charge, and to be further dealt with according to
law. Herein fail you not. Given under my hand and seal, the _____ day of
_____, in the year of our Lord 1831. J. P.

(No. 2.)

The like in the
king's name.

— } William the Fourth, by the grace of God, of the United Kingdom of Great
 } Britain and Ireland, king, defender of the faith, to our sheriff of the county
of _____, to the high constable of the hundred of _____, in the same
county, and constables of the town of _____, in the same county, and to all
and singular our bailiffs and ministers in the same county, as well within liberties as
without, greeting:

Forasmuch as C. D., of _____, hath come before J. P., Esq., one of our
justices assigned to keep our peace within the said county, and hath, &c. [Concludin;

it in the justice's name, as thus: *Witness the said J. P., at day of* .]

, the

FORMS.

(No. 3.)

County of } Forasmuch as proof upon oath hath been made before me, J. P., Esq.,
 one of his majesty's justices of the peace for the said county of
 to wit. } , that the name J. P. is of the hand-writing of the justice of the
 peace within mentioned, I do hereby authorize A. C., who bringeth to me this warrant,
 and all other persons to whom the said warrant is directed, to execute the same within
 the said county of . Given under my hand, the day
 of , in the year

Form of backing
 of or indorsement
 on warrant.

Watch.



[5 Edw. III. c. 14; 5 Hen. IV. c. 3; 5 Anne, c. 31; 10 Geo. IV. c. 44;
 11 Geo. IV. c. 27.]

WATCHING is properly intended of the night, and warding for the day- Watch and ward.
 time. *Dalt. c. 104.*

It seems to be agreed that every inhabitant is bound to keep watch in his By individuals in
 turn, or to find another. 2 *Haw. c. 13, s. 4.* general.

But they are not compellable to watch at the will of the constable, but only
 when their turn cometh; which was the ancient custom at common law.
Dalt. c. 104.

And the watching and warding ought to be by men able of body, and suffi-
 ciently weaponed. *Id.*

And therefore a woman required to watch may procure one to watch for her.
Comb. 243.

There is a watch that may be kept by the constable, *ex officio*, at all times; By the constable.
 as by the 5 Edw. III. c. 14, for night-walkers, and persons suspicious by night
 or day. 2 *Hale, 97.*

And, although a constable be not bound to any precise time for this kind of
 watch, nor punishable if he omit it, barely for the omission, if he be ready
 upon occasion to do his office when required in these cases, yet it is in his
 power to hold such watches as often as he pleases, and it is convenient and
 justifiable; and herein the watchmen are the ministers and assistants of the
 constable, and are under the same protection with him, and may act as he doth.
 2 *Hale, 97.*

Yea, it is holden, that every private person may, by the common law, arrest
 any suspicious night-walker, and detain him till he give a good account of him-
 self. 2 *Haw. c. 13, s. 6; see Arrest, Vol. I. p. 260.*

There is also another kind of watch, which is by authority of the justices of By justices.
 the peace, which also may be held at any time: and the watch thus appointed
 hath the same power as either of the former: and this seems to be within the
 power of any one justice, by the first assignment in the commission; but the
 safer way and more usual is, by order of sessions. *Lamb. 186; 2 Hale, 97;*
Dalt. c. 104.

If a watchman take any one for suspicion of felony, he may inquire of his good name and fame; and, if he find him to be of good name and fame, he
 may let him go, without being guilty of an escape. *Dalt. c. 159.* Persons taken by
 watchmen.

And if a person will not obey the arrest of the watchmen, they may levy hue
 and cry upon him, that he may be taken; or else they may justify to beat him,
 for that he resisteth the peace and justice of the realm; and may also set him
 in the stocks for the same until the morning. *Dalt. c. 104; see Arrest,*
Vol. I. p. 266.

And the watchmen may deliver such persons to the constable, or may con-

FORMS.

Infemnity of
watchmen.

vey them to a justice to be examined, and to be bound over or committed, until they be acquitted in due manner. *Id.*

A watchman hath a double protection of the law: 1st. As an assistant to the constable, when the constable is present, or in the watch; for so every man, who is assisting to the constable in the execution of his office, hath the same protection that the law gives to the constable. 2ndly. Purely as a watchman set by order of law; and the law takes notice of his authority *sub eo nomine*; and, therefore, killing a watchman in execution of his office is murder. 2 *Hale*, 98; 3 *Inst.* 52; 9 *Rep.* 66; and see *Richards*, *ante*, p. 275.

Punishment for
not watching.

See the provisions of the 3 Geo. IV. c. 1, and the 10 Geo. IV. c. 44, as to the police of the metropolis, title *Police*, *ante*, p. 106.

If any person refuse to watch in his turn at the commandment of the constable, the latter may present the default at the assizes or sessions, or may complain thereof to any justice of the peace, who may bind the offender to the good behaviour, and so over to the next sessions. *Dalt.* c. 104. And he may be indicted for the refusal. 2 *Haw.* c. 13, s. 4; *ante*, *Constable*, Vol. I. p. 800.

But here it is to be noted, that in *Cro. Eliz.* 204, which Mr. Dalton cites for his authority in this matter, it is not said that the justice may bind him to the good behaviour, but only thus,—that he may inflict punishment upon the refuser.

Parish regulations
as to.

The late statute of 11 Geo. IV. c. 27, contains many important provisions relating to the watching and lighting, &c. of parishes; see *Lighting and Watching of Parishes*, Vol. III.

(No. 1.)

Warrant for keep-
ing of watch.

— } To the Constable of the Hundred of _____, in the said county.

At a general quarter sessions of the peace holden at _____, in and for the said county, before us, _____, Esquires, justices of our lord the king, assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, you are hereby required forthwith to issue your warrant to the several petty constables within your said hundred, that they do cause watch to be kept by night, and ward by day, with able men, within and throughout their respective constablewicks, from the _____ day of _____ now next ensuing, unto the _____ day of _____ then next following; and that they do apprehend, or cause to be apprehended, all rogues, vagabonds, and other wandering, idle, and disorderly persons, and carry them before one of his majesty's justices of the peace in and for the said county, to be examined and further dealt withal according to law. Given under our hands and seals, the day and year first above written.

(No. 2.)

Commitment of a
person appre-
hended by the
watch.

— } To the Constable of _____, and to the Keeper of the House of Cor-
rection at _____.

Whereas A. O. was yesterday in the night taken by the watch set by the constable of _____, wandering abroad, and lodging in barns, outhouses, or in the open air, and is this day brought before me, J. P., Esq., one of the justices of our lord the king, assigned to keep the peace within the said county, and doth not now give a good account of himself before me. These are to require you, the said constable of _____, to convey the said A. O. to the said house of correction at _____ aforesaid, and to deliver him to the keeper thereof, together with this warrant. And I do hereby require you, the said keeper of the house of correction aforesaid, to receive the said A. O. into your custody in the said house of correction, and him there safely to keep to hard labour for _____ (a); and have you him then there, together with this precept. Given under my hand and seal, at _____, in the said county, the _____ day of _____, in the _____ year of the reign of _____.

(a) By the 5 Geo. IV. c. 83, s. 4, this must not be more than three calendar months, *ante*, *Vagrants*.

(No. 3.)

FORMS.

_____ } The jurors of our lord the king upon their oath present, that A. O., of
 _____, in the said county [yeoman], on the _____ day of _____
 in the _____ year of the reign of _____, and long before and always after, unto
 the day of the taking this inquisition, was and yet is an inhabitant of the town of
 _____ aforesaid, in the county aforesaid; and that the said A. O. then and there, to
 wit, on the said _____ day of _____, in the year aforesaid, at
 _____ aforesaid, in the county aforesaid, was duly summoned in his turn to watch with the
 constable, of _____ aforesaid, in the night of the same day; nevertheless, the said
 A. O., his duty in that behalf not regarding, did not watch in the said night of the
 same day in the year aforesaid, nor in any part of the said night, with the said con-
 stable, at _____ aforesaid, in the county aforesaid, but did then and there utterly
 refuse so to do, and wilfully and obstinately therein did make default; in contempt of
 our said lord the king, and of his laws, and against the peace of our said lord the king,
 his crown and dignity.

Indictment for
not watching.

Watchmakers. See *Servants*, ante, p. 357.

Watercourses. See *Rivers*, ante, p. 307.

Watermen. See *Thames*, ante, p. 890; *Hackney-Coaches*,
Vol. II.; *Lord's Day*, Vol. III.

Weights and Measures. (a)

THE particular weights and measures of different sorts of goods may be seen under their respective titles; what is treated of here, is touching weights and measures in general.

I. *Of the different Kinds of Weights and Measures*, p. 1001.

[9 Hen. III. c. 25; 13 & 14 Wil. c. 5; 5 Geo. IV. c. 74.]

II. *Provisions for necessary Standards in Towns, &c.* p. 1006.

[5 Geo. IV. c. 55, s. 9; 5 Geo. IV. c. 74.]

III. *Provisions for the Examination of Weights and Measures*, p. 1009.

[35 Geo. III. c. 102; 37 Geo. III. c. 143; 55 Geo. III. c. 43.]

IV. *General Clauses of the 5 Geo. IV. c. 74*, p. 1014.

[5 Geo. IV. c. 74.]

I. *Different Kinds of Weights and Measures.*

There always have been and still are two kinds of weights used in Eng- Divers weights.
 land, and both warrantable, the one by law and the other by custom; but they

(a) See in general, as to weights and measures, 2 *Chit. Commercial L.* 168 to
 19; as to foreign weights, see *Holt's C. N. P.* 747.

DIFFERENT
KINDS OF
WEIGHTS AND
MEASURES.

Troy weight.

Avoirdupois
weight.

13 & 14 Wil. 3,
c. 5.

5 Geo. 4, c. 74.

After 1st May,
1825, standard
yard defined as
the measure of
length shall be
the unit of the
measures of
extension.

Foot.
Inch.
Pole or perch.
Furlong.
Mile.

Superficial mea-
sures computed
from said yard.

Rood.

Acre.

The yard, if lost,
&c. may be re-
stored by refer-
ence to the
length of a pen-
dulum vibrating
seconds at Lon-
don.

are for several sorts of wares or commodities; for there is *troy weight* and *avoirdupois*. *Dalt. c. 112.*

Troy weight is by law; and thereby are weighed silk, gold, silver, pearl, and precious stones. And this hath to the pound twelve ounces. *Id.*

Avoirdupois (which, in French, is as much as to say, to have full weight) is by custom; and thereby are weighed all kinds of grocery wares, drugs, butter, cheese, flesh, wax, pitch, tar, tallow, wool, hemp, flax, iron, steel, lead, and all other commodities which bear the name of garbel, and whereof issueth a refuse or waste. And this hath to the pound sixteen ounces; and twelve pounds over are allowed to every hundred. *Id.*

And by the 13 & 14 Wil. III. c. 5, a legal Winchester bushel, according to the standard in the Exchequer, shall be round, with a plain bottom, eighteen and a half inches wide throughout, and eight inches deep.

By the 5 Geo. IV. c. 74, intituled, "An Act for ascertaining and establishing Uniformity of Weights and Measures," after reciting, "whereas it is necessary for the security of commerce, and for the good of the community, that weights and measures should be just and uniform: and whereas, notwithstanding it is provided by the great charter, that there shall be but one measure and one weight throughout the realm, and by the treaty of union between England and Scotland, that the same weights and measures should be used throughout Great Britain as were then established in England, yet different weights and measures, some larger, and some less, are still in use in various places throughout the United Kingdom of Great Britain and Ireland, and the true measure of the present standards is not verily known, which is the cause of great confusion and of manifest frauds: for the remedy and prevention of these evils for the future, and to the end that certain standards of weights and measures should be established throughout the United Kingdom of Great Britain and Ireland;" it is enacted, "that the straight line or distance between the centres of the two points in the gold studs in the straight brass rod, now in the custody of the clerk of the House of Commons, whereon the words and figures 'Standard Yard, 1760,' are engraved, shall be, and the same is hereby declared to be, the original and genuine standard of that measure of length or lineal extension called a yard; and that the same straight line or distance between the centres of the said two points in the said gold studs in the said brass rod, the brass being at the temperature of sixty-two degrees by *Fahrenheit's* thermometer, shall be, and is hereby denominated the 'Imperial Standard Yard,' and shall be, and is hereby declared to be, the unit or only standard measure of extension, wherefrom or whereby all other measures of extension whatsoever, whether the same be lineal, superficial, or solid, shall be derived, computed, and ascertained; and that all measures of length shall be taken in parts or multiples, or certain proportions of the said standard yard; and that one-third part of the said standard yard shall be a foot, and the twelfth part of such foot shall be an inch; and that the pole or perch in length shall contain five such yards and a half, the furlong two hundred and twenty such yards, and the mile one thousand seven hundred and sixty such yards."

Sec. 2. "That all superficial measures shall be computed and ascertained by the said standard yard, or by certain parts, multiples, or proportions thereof; and that the rood of land shall contain one thousand two hundred and ten square yards, according to the said standard yard; and that the acre of land shall contain four thousand eight hundred and forty such square yards, being one hundred and sixty square perches, poles, or rods."

Sec. 3. "And whereas it is expedient that the said standard yard, if lost, destroyed, defaced, or otherwise injured, should be restored of the same length by reference to some invariable natural standard: and whereas it has been ascertained by the commissioners appointed by his majesty to inquire into the subject of weights and measures, that the said yard hereby declared to be the imperial standard yard, when compared with a pendulum vibrating seconds of mean time in the latitude of London, in a vacuum at the level of the sea, is in the proportion of thirty-six inches to thirty-nine inches, and one thousand three hundred and ninety-three ten thousandths parts of an inch; be it therefore enacted and declared, that if at any time hereafter the said imperial standard yard

shall be lost, or shall be in any manner destroyed, defaced, or otherwise injured, it shall and may be restored, by making, under the direction of the lord high treasurer, or the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three of them, for the time being, a new standard yard, bearing the same proportion to such pendulum as aforesaid, as the said imperial standard yard bears to such pendulum."

**DIFFERENT
KINDS OF
WEIGHTS AND
MEASURES.**
5 Geo. 4, c. 74.

Sect. 4. "That the standard brass weight of one pound troy weight, made in the year 1758, now in the custody of the clerk of the House of Commons, shall be, and the same is hereby declared to be, the original and genuine standard measure of weight, and that such brass weight shall be, and is hereby denominated, the imperial standard troy pound, and shall be, and the same is hereby declared to be, the unit or only standard measure of weight, from which all other weights shall be derived, computed, and ascertained; and that one-twelfth part of the said troy pound shall be an ounce; and that one-twentieth part of such ounce shall be a pennyweight; and that one twenty-fourth part of such pennyweight shall be a grain; so that five thousand seven hundred and sixty such grains shall be a troy pound, and that seven thousand such grains shall be, and they are hereby declared to be, a pound avoirdupois; and that one-sixteenth part of the said pound avoirdupois shall be an ounce avoirdupois; and that one-sixteenth part of such ounce shall be a drachm."

Standard pound
defined as the
measure of
weight.

Ounce.
Pennyweight.
Grain.

Drachm.

Sect. 5. "And whereas it is expedient, that the said standard troy pound, if lost, destroyed, defaced, or otherwise injured, should be restored of the same weight, by reference to some invariable natural standard; and whereas it has been ascertained, by the commissioners appointed by his majesty to inquire into the subjects of weights and measures, that a cubic inch of distilled water, weighed in air by brass weights, at the temperature of sixty-two degrees of *Fahrenheit's* thermometer, the barometer being at thirty inches, is equal to two hundred and fifty-two grains and four hundred and fifty-eight thousandth parts of a grain, of which, as aforesaid, the imperial standard troy pound contains five thousand seven hundred and sixty: be it therefore enacted, that if at any time hereafter the said imperial standard troy pound shall be lost, or shall be in any manner destroyed, defaced, or otherwise injured, it shall and may be restored by making, under the directions of the lord high treasurer, or the commissioners of his majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three of them for the time being, a new standard troy pound, bearing the same proportion to the weight of a cubic inch of distilled water, as the said standard pound hereby established bears to such cubic inch of water."

The pound, if
lost, &c. may
be restored by
reference to
the weight of
a cubic inch
of water.

Sect. 6. "That the standard measure of capacity, as well for liquids as for dry goods not measured by heaped measure, shall be the gallon, containing ten pounds avoirdupois weight of distilled water weighed in air, at the temperature of sixty-two degrees of *Fahrenheit's* thermometer, the barometer being at thirty inches; and that a measure shall be forthwith made of brass, of such contents as aforesaid, under the directions of the lord high treasurer, or the commissioners of his majesty's treasury of the United Kingdom, or any three or more of them for the time being; and such brass measure shall be, and is hereby declared to be, the imperial standard gallon, and shall be, and is hereby declared to be, the unit and only standard measure of capacity, from which all other measures of capacity to be used, as well for wine, beer, ale, spirits, and all sorts of liquids, as for dry goods not measured by heap measure, shall be derived, computed, and ascertained; and that all measures shall be taken in parts or multiples, or certain proportions of the said imperial standard gallon; and that the quart shall be the fourth part of such standard gallon; and the pint shall be one eighth of such standard gallon; and that two such gallons shall be a peck; and eight such gallons shall be a bushel; and eight such bushels a quarter of corn, or other dry goods, not measured by heaped measure."

Standard gallon,
containing ten
pounds avoirdupois
of water, to
be the measure
of capacity.

Gallon.

Quart.
Pint.
Peck.
Bushel.
Quarter.

Sect. 7. "That the standard measure of capacity for coals, culm, lime, fish, potatoes, or fruit, and all other goods and things commonly sold by heaped measure, shall be the aforesaid bushel, containing eighty pounds avoirdupois of water as aforesaid, the same being made round with a plain and even bot-

Standard for
heaped measure.

DIFFERENT
KINDS OF
WEIGHTS AND
MEASURES.

How the bushel
shall be heaped.

Measure of
weight, or heaped
measure, to be
used for articles
herein mentioned.

For other articles,
weight or stricken
measure.

Selling by measure
instead of
weight in Ireland.

After 1st May,
1825, (a) all contracts
for sale, &c.
by weight or measure
shall relate
to the standard,
unless the contrary
is specified.

Existing weights
and measures may
be used, being
marked so as to
show the proportion
they have to
the standard measures
and weights.

tom, and being nineteen inches and a half from outside to outside of such standard measure as aforesaid."

Sect. 8. "That, in making use of such bushel, all coals and other goods and things commonly sold by heaped measure, shall be duly heaped up in such bushel, in the form of a cone, such cone to be of the height of at least six inches, and the outside of the bushel to be the extremity of the base of such cone; and that three bushels shall be a sack, and that twelve such sacks shall be a chaldron."

Sect. 9. "Provided, that any contracts, bargains, sales, and dealings made or had for, or with respect to, any coals, culm, lime, fish, potatoes, or fruit, and all other goods and things commonly sold by heaped measure, sold, delivered, done, or agreed for, or to be sold, delivered, done, or agreed for, by weight or measure, shall and may be either according to the said standard of weight, or the said standard for heaped measure; but all contracts, bargains, sales, and dealings, made or had for any other goods, wares, or merchandize, or other thing done or agreed for, or to be sold, delivered, done, or agreed for by weight or measure, shall be made and had according to the said standard of weight, or to the said gallon, or the parts, multiples, or proportions thereof; and, in using, the same measures shall not be heaped, but shall be stricken with a round stick or roller, straight and of the same diameter from end to end."

Sect. 10. Provided, that nothing herein contained shall authorize the selling in Ireland, by measure, of any articles, matters, or things, which by any law in force in Ireland are required to be sold by weight only."

Sect. 15. "That all contracts, bargains, sales, and dealings which shall be made or had within any part of the United Kingdom of Great Britain and Ireland, for any work to be done, or for any goods, wares, merchandize, or other thing to be sold, delivered, done, or agreed for by weight or measure, where no special agreement shall be made to the contrary, shall be deemed, taken, and construed to be made and had according to the standard weights and measures ascertained by this act; and in all cases where any special agreement shall be made, with reference to any weight or measure established by local custom, the ratio or proportion which every such local weight or measure shall bear to any of the said standard weights or measures, shall be expressed, declared, and specified in such agreement, or otherwise such agreement shall be null and void." (b)

Sect. 16. "And whereas it is expedient that persons should be allowed to use the several weights and measures which they may have in their possession, although such weights and measures may not be in conformity with the standard weights and measures established by this act; be it therefore enacted, that it shall and may be lawful for any person or persons to buy and sell goods and merchandize by any weights or measures established either by local custom, or founded on special agreement: provided always, that in order that the ratio or proportion which all such measures and weights shall bear to the standard weights and measures established by this act, shall be and become a matter of common notoriety, the ratio or proportion which all such customary measures and weights shall bear to the said standard weights and measures, shall be painted or marked upon all such customary weights and measures respectively; and that nothing herein contained shall extend, or be construed to extend, to permit any maker of weights or measures, or any person or persons whomsoever, to make any weight or measure at any time after the first day of May, 1825, (a) except in conformity with the standard weights and measures established under the provisions of this act."

¶ Geo. 4, c. 12.

By the 6 Geo. IV. c. 12, reciting, "whereas an act was passed in the last session of Parliament, intituled, 'An Act for ascertaining and establishing Uniformity of Weights and Measures,' and the operation of certain clauses and provisions in the said act contained, is by the said act directed to take place

(a) See the 6 Geo. IV. c. 12, *infra*. (b) See the cases, *post*, p. 1005.

from and after the first day of May, 1825, and the operation of certain other clauses in the said act contained, is by the said act directed to take place within three calendar months, or within six calendar months respectively, next after the passing of the said act; and it is by the said act, among other things, enacted that the several statutes, ordinances, and acts, and parts of the several statutes, ordinances, and acts, in the said recited act mentioned and specified, so far as the same relate to the ascertaining or establishing any standards of weights and measures, or to the establishing or recognizing certain differences between weights and measures of the same denominations, shall, from and after the first day of May, 1825, be repealed; and whereas it hath been found that further time is necessarily required before the said act can be conveniently carried into effect: it is enacted, "that the several clauses in the said act contained, the operation whereof is by the said act directed and appointed to commence and take effect from and after the first day of May, 1825, shall commence and take effect on the first day of January, 1826, and not sooner; and that such matters and things as are by the said act required to be done within three calendar months, or within six calendar months respectively next after the passing of the said act, shall and may be lawfully done at any time before the expiration of the three calendar months, or six calendar months respectively, after the first day of May, 1825; and that the several statutes, ordinances, and acts, and parts of statutes, ordinances, and acts, which by the said recited act are repealed from and after the first day of May, 1825, shall remain and continue in force until the said first day of January, 1826, and no longer, and shall, from and after the said first day of January, 1826, be repealed to all intents and purposes, as if the said first day of January, 1826, had been mentioned and specified in the said recited act, instead of the said first day of May, 1825, the said recited act, or any clause, matter, or thing in the same contained to the contrary in anywise notwithstanding."

Sec. 2. "And whereas, by the above-recited act, the figure of the standard bushel measure directed to be used for the sale of coals, culm, fish, potatoes, and fruit, is fixed and determined: and whereas it is expedient that the figure of all other measures used for the sale of coals, and all other goods and things commonly sold by heaped measure, should also be fixed and determined: be it therefore enacted, that from and after the first day of January, 1826, all such measures shall be made cylindrical, and the diameter of such measures shall be at the least double the depth thereof, and the height of the cone or heap shall be equal to three-fourths of the depth of the said measure, the outside of the measure being the extremity or base of such cone."

Before the passing of the 5 Geo. IV. c. 74, no other weight or measure could properly be used but that sanctioned by the statutes repealed by that act; and it was illegal to sell corn by any other measure than the Winchester measure, of eight gallons to the bushel. *R. v. Major*, 4 T. R. 750. And the buyer of corn by any other than the Winchester measure was subject to the penalty of 40s., in addition to the value of the corn so bought, by the 22 & 23 Car. II. c. 12. *R. v. Arnold*, 5 T. R. 353; *Nolan*, 281, S. C.; and see *Tyson v. Thomas*, 1 McClell. & Y. 119, in which it was held that a contract for the sale of corn by the hobbet was in contravention of the provisions of the 22 Car. II. c. 3, s. 2; and therefore an action could not lie for the breach of it.

And where the *reddendum* in a hospital renewed lease was so many quarters of corn, it was held, that it ought to be understood to mean legal quarters, reckoning the bushel at eight gallons, although the old leases, before the statute of 22 & 23 Car. II. c. 12, contained the same *reddendum*, and although till lately the lessees paid by composition, reckoning the bushel at nine gallons. *Hospital of St. Cross v. Howard de Walden*, 6 T. R. 338.

So, also, in the case of *Noble v. Durrell*, it was determined that a custom in a particular market town (Bridgnorth), that butter should weigh eighteen ounces to the pound, was bad. But Lord Kenyon, C. J., said, "that he did not mean, in deciding that question, that a custom to sell butter in lumps of any number of ounces was not good." And Buller, J., said, "that this question did not interfere with the question, whether to sell butter in lumps of any

DIFFERENT KINDS OF WEIGHTS AND MEASURES.

6 Geo. 4, c. 12.

5 Geo. 4, c. 74, not to take effect before Jan. 1, 1826.

Time for doing things thereby required.

The statute repealed by recited act to continue till Jan. 1, 1826, and then to be repealed.

Figure of all other measures determined.

How far customary measures may be used.

PROVISIONS AS
TO STAND-
ARDS, &c.

particular weight, is good or not. That he had not seen any act which required persons not to sell more or less than a pound; but the question there is, when a person is selling under the specific denomination of a *pound*, shall he be compellable to sell more than a pound?" 3 T. R. 271.

But, since the 5 Geo. IV. c. 74, a sale may be effected by any local weight or measure, if the ratio of such weight or measure to the standard weight or measure be specified in terms. *Tyson v. Thomas*, 1 M'Clel. & Y. 128.

In the case of *Watts v. Friend*, tried at Maidstone, 11th of August, 1828, before Lord Tenterden, the declaration was an assumpsit for non-delivery of seed of turnips. It appeared that the contract was made *verbally*, for the sale of the seed whilst the turnips were growing. And the sale was by the strike, and by Winchester measure, although the parties knew that the imperial standard was the lawful measure. Lord Tenterden observed, "that parties must, since the 5 Geo. IV. c. 74, s. 15, (*ante*, 1004) virtually contract to sell by the imperial measure, and if not, they must, in and by the very words of their contract, state the terms of their bargain, for otherwise the provisions of the act would be avoided, and that it was therefore questionable whether the parties could, upon the parol contract, recover; and the point was reserved." *Chit. Col. Stat.* 1107.

II. Provisions as to Standards, &c. in Towns, &c.

By different statutes (14 Edw. III. st. 1, c. 12; 31 Edw. III. st. 1, c. 2; 12 Hen. VII. c. 5; now repealed by 5 Geo. IV. c. 74, s. 23), directions were given for sending measures, according to the standard in the Exchequer, into the different parts of the kingdom.

By the 5 Geo. IV. c. 74, s. 11, it is enacted, "that copies and models of each of the standard yard, the said standard pound, the said standard gallon, and the said standard for heaped measure, and of such parts and multiples thereof, respectively, as the lord high treasurer of the United Kingdom of Great Britain and Ireland, or the said commissioners of his majesty's treasury, or any three of them, for the time being, shall judge expedient, shall, within three calendar months next after the passing of this act, be carefully made and verified under the direction of the said lord high treasurer, or the said commissioners of his majesty's treasury, or any three of them, for the time being; and that the copies and models of the said standard yard, of the said standard pound, of the said standard gallon, and of the said standard for heaped measure, and of parts and multiples thereof, so forthwith to be made and verified as aforesaid, shall, within three calendar months after the passing of this act, be deposited in the office of the chamberlains of the Exchequer at Westminster, and that copies thereof, verified as aforesaid, shall be sent to the lord mayor of London and the chief magistrate of Edinburgh and Dublin, and of such other cities and places, and to such other places and persons in his majesty's dominions or elsewhere, as the lord high treasurer or commissioners of the treasurer may from time to time direct."

Sect. 12 "That his majesty's justices of the peace in every county, riding, or division in England or Ireland, or shire or stewartry in Scotland, and the magistrates in every city, town, or place (being a county within itself) in England or Ireland, and in every city or royal burgh in Scotland, shall, within six calendar months after the passing of this act, purchase for their respective counties, ridings, or divisions, shires or stewartries, cities, towns, or places, or cities or royal burghs, a model and copy of each of the aforesaid standards of length, weight, measure, and of each of the parts and multiples thereof; which models and copies, when so purchased, shall be compared and verified with the models and copies deposited with the chamberlains of the Exchequer as aforesaid, in such manner as aforesaid, and upon payment of such fees as are at present payable to the said chamberlains upon the comparison and verification of weights and measures with the standards thereof; and such models and copies, when so compared and verified, shall be placed for custody and inspection with such person or persons, and in such place or places, as the said

Copies and models of the standard of length, weight, and measure to be made and verified under direction of the treasury.

Models and copies to be provided for counties, &c.

To be placed for custody and inspection as herein mentioned.

justices and magistrates, in their respective counties, ridings, and divisions, and shires or stewardries, cities, towns, and places, or cities or royal burghs, shall appoint, and the same shall be produced by the keeper or keepers thereof, upon reasonable notice, at such time or times and place or places, within each such county, riding, or division, shire, or stewardry, city, town, or place, or city or royal burgh, as any person or persons shall, by writing under his or their hand or hands, require; the person requiring such production paying the reasonable charges of the same."

Sect. 13. "That the expense of procuring and transmitting such models and copies for the respective counties, ridings, or divisions, cities, towns, or places, shall be paid, in that part of the said United Kingdom of Great Britain and Ireland called England, out of the rates payable in such counties, ridings, or divisions, cities, towns, or places; and in that part of the said United Kingdom called Scotland, such expenses in the respective shires and stewardries, and cities or royal burghs, shall be assessed by the commissioners of supply upon such shires and stewardries, and upon cities or royal burghs, by the magistrates thereof, and shall be paid along with the land-tax payable in such shires or stewardries, and cities or royal burghs, to the collectors of the land-tax in such shires or stewardries, and cities or royal burghs, respectively; and, in Ireland, such expenses shall be paid in the respective counties, and counties of cities and counties of towns, by presentments to be made by grand juries; and the collectors of such county rates in England, of land-tax in Scotland, and of the assessments under grand jury presentments in Ireland, shall have such and the same powers of levying and recovering the assessments to be made under this act, as are competent to them, for levying and recovering the said county rates, land-tax, and grand-jury assessments, respectively; and the said collectors respectively shall, out of the proceeds of such assessments, pay the expenses of procuring and transmitting such models and copies as aforesaid accordingly."

Sect. 14. "Provided, that in all cases of dispute respecting the correctness of any measure of capacity, arising in a place where recourse cannot be conveniently had to any of the aforesaid verified copies or models of the standard measures of capacity, or parts or multiples of the same, it shall and may be lawful to and for any justice of the peace, or magistrate, having jurisdiction in such place, to ascertain the content of such measure of capacity by direct reference to the weight of pure or rain water which such measure is capable of containing; ten pounds avoirdupois weight of such water, at the temperature of sixty-two degrees by Fahrenheit's thermometer, being the standard gallon ascertained by this act, the same being in bulk equal to two hundred and seventy-seven cubic inches, and two hundred and seventy-four one-thousandth parts of a cubic inch, and so in proportion for all parts and multiples of a gallon."

Sect. 17, "for the purposes of ascertaining and fixing the payments to be made in consequence of all existing contracts or rents in England and Ireland, payable in grain or malt, or in any other commodity or thing, and in consequence of any toll or rate heretofore payable, according to the weights and measures heretofore in use;" enacts, "that at the general or quarter sessions of the peace to be holden in every county, riding, or division, and in every city, town, or place (being a county of itself) in England or Ireland, next after the expiration of six calendar months after the passing of this act, or at any general quarter sessions of the peace to be holden thereafter, an inquisition shall be taken before the justices assembled at such general or quarter sessions, by the oaths of twelve substantial freeholders of the said respective counties, cities, towns, or places, having lands or tenements to the value of 100*l.* per annum or upwards, to be summoned by the sheriff or proper officer of every such county, city, town, or place, to inquire into and ascertain the amount, according to the standard of weight or measure by this act established, of all contracts or rents payable in grain or malt, or any other commodity or thing, or with reference to the measure or weight of any such grain, malt, or other commodity or thing, and the amount of any toll or rate heretofore payable according to any weights and measures heretofore in use within such counties, cities, towns, or places,

PROVISIONS AS
TO STAND-
ARDS, &c.

§ Geo. 4, c. 74.

Expenses of pro-
curing such mo-
dels and copies,
how to be paid
in England and
Scotland re-
spectively.

For ascertaining
measures of capa-
city, where re-
ference cannot
easily be had to
standards.

For ascertaining
rents, &c. pay-
able in grain or
malt, &c. in En-
gland and Ireland.

PROVISIONS AS
TO STAND-
ARDS, &c.

8 Geo. 4, c. 74.

respectively; and such inquisitions, when taken, shall be transmitted by the respective clerks of the peace of the same counties respectively, or by the mayor, bailiff, or other head officer of every such city, town, or place (being a county of itself,) into his majesty's courts of Exchequer at Westminster and Dublin, respectively, and shall there be enrolled of record, and shall and may be given in evidence in any action or suit at law or in equity; and the amount so to be ascertained shall be the rule of payment in regard to all such contracts, rents, tolls, or rates, in all time coming; and the costs and charges of such inquisitions, and the enrolments thereof, shall be paid and defrayed, in England, out of the general rate or stock of every such county, riding, division, city, town, or place (being a county of itself), and in Ireland, by prepayments of the several grand juries."

For ascertaining
rents, &c. payable
in grain or malt,
&c. in Scotland.

Sect. 18. "And, for the purpose of ascertaining and fixing the payments to be made of all stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever, payable in grain, malt, or meal, or any other commodity or thing, in that part of the United Kingdom called Scotland, or in any place or district of the same; be it enacted, that the sheriff depute or sheriff substitute in each shire, and the steward depute or steward substitute in each stewartry, within Scotland, shall, as soon as conveniently may be after the expiration of six calendar months from and after the passing of this act, summon and impanel a jury of the same number, and with the same qualifications, which are required in the jury who strike the fair prices of grain within the same shire or stewartry, to assemble at such place or places as he shall find convenient; which jury shall inquire into and ascertain the amount, according to the standards by this act established, of all such stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever, payable in grain, malt, meal, or any other commodity or thing, according to the weights and measures heretofore in use within the same shires or stewartries; and such inquisitions, when taken, shall be transmitted by the respective sheriff clerks or steward clerks of such shires or stewartries, into his majesty's Court of Exchequer at Edinburgh, and shall there be enrolled of record, and shall and may be given in evidence in any action or suit at law or in equity; and the amount so to be ascertained shall, when converted into the standard weights and measures, be the rule of payment in regard to all such stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever, in all time coming; and the costs and charges of such inquisitions, and the enrolment thereof, shall be assessed and levied, paid, and defrayed by every such shire or stewartry, in manner as is heretofore directed in regard to the assessment for the models of the weights and measures to be purchased for the same shire or stewartry."

Costs thereof,
how defrayed.

Tables of equal-
ization to be made
and constructed
under the autho-
rity of the
treasury.

Sect. 19. "That, as soon as conveniently may be after such inquisitions shall have been made and enrolled in England, Ireland, and Scotland, respectively, accurate tables shall be prepared and published, under the authority of the said commissioners of his majesty's treasury, showing the proportions between the weights and measures heretofore in use, as mentioned in such inquisitions, and the weights and measures hereby established, with such other conversions of weights or measures as the said commissioners of his majesty's treasury may deem to be necessary; and after the publication of such tables, all future payments to be made shall be regulated according to such tables."

Tables to be con-
structed for the
collection of the
customs and
excise, &c.

Sect. 20. "And whereas the weights and measures by which the rates and duties of the customs and excise, and other his majesty's revenue, have been heretofore collected, are different from the weights and measures of the same denominations directed by this act to be universally used: and whereas the alteration of such weights and measures may, without due care had therein, greatly affect his majesty's revenue, and tend to the diminishing of the same: for the prevention thereof, be it therefore enacted, that so soon as conveniently may be after the passing of this act, accurate tables shall be prepared and published, under the direction of the said commissioners of the treasury for the time being, in order that the several rates and duties of customs and excise, and other his majesty's revenue, may be adjusted and made payable according to the respective quantities of the legal standards directed by this act to be uni-

versally used; and that, from and after the said first day of May, 1825, (a) and the publication of such tables, the several rates and duties thereafter to be collected by any of the officers of his majesty's customs or excise, or other his majesty's revenue, shall be collected and taken according to the calculations in the tables to be prepared as aforesaid."

It should also be noticed, that the 5 Geo. IV. c. 55, s. 9, provides that tables of weights and measures shall be constructed under the directions of the treasury, by which the duties, &c. of customs and excise shall be uniformly collected throughout the United Kingdom. See *Artis*, Vol. II.

Sect. 25. "Provided, that from and after the passing of this act, (a) all tuns, pipes, tertians, hogsheads, or other vessels of wine, oil, honey, and other gaugeable liquors, imported or brought into the port of the city of London, and landed within the said city and the liberties thereof, shall be subject and liable to be gauged, as heretofore hath been of right accustomed, by the lord mayor of the said city for the time being, by virtue of his office of gauger, or by his sufficient deputies, lawfully appointed, save and except that the contents of all such tuns, pipes, tertians, hogsheads, and other vessels, shall and may be ascertained by the standard measure of capacity for liquids directed by this act, and the multiples thereof; and that all such pipes, tuns, tertians, hogsheads, or other vessels that shall be found wanting of the true contents which such tuns, pipes, tertians, hogsheads, or other vessels ought to be of, to be ascertained as aforesaid, together with the wine and other liquids therein contained, shall be subject and liable to the like seizures and forfeitures as is or are provided by any act or acts of Parliament heretofore made for ascertaining the true contents of tuns, pipes, tertians, hogsheads, and other vessels of wine, oil, honey, and other gaugeable liquors; and that the moieties of such forfeitures due to his majesty, his heirs and successors, shall be, in like manner as heretofore hath been accustomed, accounted for by the lord mayor, for the time being, as such gauger, and his deputies, to his majesty, his heirs, and successors, in his and their Court of Exchequer at Westminster."

Sect. 26. "Provided also, that this act, or anything herein contained, shall not extend to prohibit, defeat, injure, or lessen the right of the mayor and commonalty and citizens of the city of London, or of the lord mayor of the said city for the time being, of, in, to, or concerning the office of gauger of wines, oils, honey, and other gaugeable liquors imported and landed within the city of London and the liberties thereof."

The selling by false weights and measures is an offence at the common law, and consequently may be punished by indictment, fine, and imprisonment.

PROVISIONS AS
TO EXAMINATION
OF
WEIGHTS, &c.
5 Geo. 4, c. 74.

Vessels of wine, and other gaugeable liquors imported into London, liable to gauge as heretofore by lord mayor or his deputies.

Contents to be ascertained by standard measure of this act.

Proviso for London as to office of gauger of wines, &c.

III. *Provisions as to Examination of Weights and Measures.*

By the 35 Geo. III. c. 102, s. 3, it is enacted, "that if any person shall wilfully obstruct, hinder, resist, or in anywise oppose, any of the persons hereby authorized and empowered to view and examine such weights and balances in the execution of his office, or if any person selling or retailing by weight shall refuse to produce his or her weights and balances in order to be viewed and examined, he or she who shall so offend, shall, for every such offence, on being duly convicted on oath, before any one or more justices of the peace, forfeit and pay any sum not exceeding 40s., nor less than 5s., as the justice or justices before whom any such offender shall be convicted shall adjudge; and such forfeiture or penalty shall be levied and applied as hereinbefore directed."

Sect. 4. "That it shall and may be lawful to and for the justices, at their said quarter-sessions, to allow to such person or persons, who shall be appointed to examine weights and balances under this act, a reasonable recompense or satisfaction for their trouble in the execution of the said office, such recompense or satisfaction to be paid to such person or persons out of the general county rate."

35 Geo. 3, c. 102. Penalty for obstructing inspectors, or refusing to produce weights, &c.

Quarter-sessions to allow a recompense to the inspectors out of the county rate.

(a) See the 6 Geo. IV. c. 12, *ante*, p. 1004, 1005.

PROVISIONS AS
TO EXAMINA-
TION OF
WEIGHTS, &c.

Persons punished
under this act not
to suffer by
any other.

Not to lessen the
authority of per-
sons appointed
at court leets.

Justices to cause
standard weights
to be purchased
out of the county
rate, which shall
be produced to
persons paying
the costs of pro-
duction.

No person to be
prosecuted unless
information be
given within a
month.

Public act.

37 Geo. 3, c. 143.
So much of recit-
ed act as requires
the justices at
quarter sessions
to appoint per-
sons to examine
weights, &c. re-
pealed, and jus-
tices at their pet-
ty sessions may
appoint such ex-
aminers.

Examiners, when
directed by the
justices, to visit
shops, &c. and
seize false
weights, &c.

Sect. 5. "Provided, that any person or persons convicted of an offence under this act, and who shall suffer for the same under this act, shall not be otherwise punished for such offence by virtue of any other law or statute of this realm."

Sect. 6. "Provided also, that this act, or anything herein contained, shall not extend, or be construed to extend, to lessen or prevent the authority which any person or persons, bodies politic or corporate, or any person appointed at any court leet for any hundred or manor, may have or possess for the examining, regulating, seizing, breaking, or destroying any weights or balances within their respective jurisdictions, but that he, she, and they, shall and may have and possess the same power and authority therein as if this act had not been made."

Sect. 7. And, for the more effectually carrying this act into execution, it is enacted, "that it shall and may be lawful to and for the said justices, and they are hereby empowered and required, as soon after the passing of this act as may be convenient, to purchase, or cause to be purchased, for the use of their respective counties, ridings, or divisions, out of the general county rate, proper weights according to the standard in the Exchequer; which shall be deposited for the inspection of all persons, either with the respective clerks of the peace, or with some proper person, in such safe and convenient place or places, within their respective counties, ridings, or divisions, as the said justices shall direct; and shall be produced by the person or persons in whose custody the same shall be lodged (upon reasonable notice), at such time and place as any person or persons shall, by writing under their respective hands, require and appoint; the person or persons so requiring the production of the said weights paying the reasonable costs and charges of producing the same."

Sect. 8. "Provided also, that no person or persons shall be prosecuted for any offence against this act, unless information thereof, upon oath, shall have been given to some justice of the peace within one month after the offence committed."

Sect. 9 makes it a public act.

The 37 Geo. III. c. 143, s. 1, repeals so much of the 35 Geo. III. c. 102, as requires the justices, at the quarter-sessions of the peace, to appoint persons to examine the weights and balances within their respective counties, &c., and which authorizes the persons so appointed to search for and examine all weights and balances, and to seize and destroy false or unequal weights or balances, and imposes a penalty on the persons in whose possession the same shall be found; and enacts, "that it shall and may be lawful to and for the justices of the peace, at their respective petty sessions, within the divisions, districts, and other places of the several counties in England and Wales, to appoint one or more person or persons, who shall have power to examine the weights and balances within such divisions, districts, and other places respectively."

It should be observed, that this statute must be construed so as to have been capable of being carried into immediate effect when it passed, and at which time the justices in petty sessions could appoint the examiners of weights and balances only for such divisions and districts as were then known and recognized; they cannot now subdivide such districts, and appoint distinct officers; where a rule therefore was obtained for a *mandamus*, calling upon the justices of the county to allow a compensation out of the county rate to an examiner of weights and measures so illegally appointed, it was discharged with costs. *R. v. Justices of Devon*, 1 B. & A. 588.

Sect. 2. "That it shall and may be lawful to and for the person or persons so to be appointed as aforesaid, and they are hereby required (having first been sworn duly and faithfully to execute the office in him or them reposed by virtue of such appointment, and of this act, which oath such justices are hereby authorized and empowered to administer), as often as the said justices shall direct, in the day-time, to enter into the shop, mill, house, outhouses, and other premises near to such shop, mill, or house, and into the stall or standing-place of any person or persons who sell by retail and weight any wares, provisions, goods, or chattels whatsoever, and then and there to search for, view, and examine all weights and balances in such shop, mill, house, outhouses, premises, stall, or standing-place, and to seize any weight or weights, not being according to the

versally used; and that, from and after the said first day of May, 1825, (a) and the publication of such tables, the several rates and duties thereafter to be collected by any of the officers of his majesty's customs or excise, or other his majesty's revenue, shall be collected and taken according to the calculations in the tables to be prepared as aforesaid."

It should also be noticed, that the 5 Geo. IV. c. 55, s. 9, provides that tables of weights and measures shall be constructed under the directions of the treasury, by which the duties, &c. of customs and excise shall be uniformly collected throughout the United Kingdom. See *Excise*, Vol. II.

Sect. 25. "Provided, that from and after the passing of this act, (a) all tuns, pipes, tertians, hogsheads, or other vessels of wine, oil, honey, and other gaugeable liquors, imported or brought into the port of the city of London, and landed within the said city and the liberties thereof, shall be subject and liable to be gauged, as heretofore hath been of right accustomed, by the lord mayor of the said city for the time being, by virtue of his office of gauger, or by his sufficient deputies, lawfully appointed, save and except that the contents of all such tuns, pipes, tertians, hogsheads, and other vessels, shall and may be ascertained by the standard measure of capacity for liquids directed by this act, and the multiples thereof; and that all such pipes, tuns, tertians, hogsheads, or other vessels that shall be found wanting of the true contents which such tuns, pipes, tertians, hogsheads, or other vessels ought to be of, to be ascertained as aforesaid, together with the wine and other liquids therein contained, shall be subject and liable to the like seizures and forfeitures as is or are provided by any act or acts of Parliament heretofore made for ascertaining the true contents of tuns, pipes, tertians, hogsheads, and other vessels of wine, oil, honey, and other gaugeable liquors; and that the moiety of such forfeitures due to his majesty, his heirs and successors, shall be, in like manner as heretofore hath been accustomed, accounted for by the lord mayor, for the time being, as such gauger, and his deputies, to his majesty, his heirs, and successors, in his and their Court of Exchequer at Westminster."

Sect. 26. "Provided also, that this act, or anything herein contained, shall not extend to prohibit, defeat, injure, or lessen the right of the mayor and commonalty and citizens of the city of London, or of the lord mayor of the said city for the time being, of, in, to, or concerning the office of gauger of wines, oils, honey, and other gaugeable liquors imported and landed within the city of London and the liberties thereof."

The selling by false weights and measures is an offence at the common law, and consequently may be punished by indictment, fine, and imprisonment.

PROVISIONS AS
TO EXAMINA-
TION OF
WEIGHTS, &c.
5 Geo. 4, c. 74.

Vessels of wine,
and other gauge-
able liquors im-
ported into Lon-
don, liable to
gaugage as hereto-
fore by lord
mayor or his
deputies.

Contents to be
ascertained by
standard measure
of this act.

Proviso for Lon-
don as to office of
gauger of wines,
&c.

III. *Provisions as to Examination of Weights and Measures.*

By the 35 Geo. III. c. 102, s. 3, it is enacted, "that if any person shall wilfully obstruct, hinder, resist, or in anywise oppose, any of the persons hereby authorized and empowered to view and examine such weights and balances in the execution of his office, or if any person selling or retailing by weight shall refuse to produce his or her weights and balances in order to be viewed and examined, he or she who shall so offend, shall, for every such offence, on being duly convicted on oath, before any one or more justices of the peace, forfeit and pay any sum not exceeding 40s., nor less than 5s., as the justice or justices before whom any such offender shall be convicted shall adjudge; and such forfeiture or penalty shall be levied and applied as hereinbefore directed."

Sect. 4. "That it shall and may be lawful to and for the justices, at their aid quarter-sessions, to allow to such person or persons, who shall be appointed to examine weights and balances under this act, a reasonable recompense or satisfaction for their trouble in the execution of the said office, such recompense or satisfaction to be paid to such person or persons out of the general county rate."

35 Geo. 3, c. 102.
Penalty for ob-
structing inspec-
tors, or refusing
to produce
weights, &c.

Quarter-sessions
to allow a recom-
pense to the in-
spectors out of
the county rate.

(a) See the 6 Geo. IV. c. 12, ante, p. 1004, 1005.

PROVISIONS AS
TO EXAMINA-
TION OF
WEIGHTS, &c.

Persons punished
under this act not
to suffer by
any other.

Not to lessen the
authority of per-
sons appointed
at court leets.

Justices to cause
standard weights
to be purchased
out of the county
rate, which shall
be produced to
persons paying
the costs of pro-
duction.

No person to be
prosecuted unless
information be
given within a
month.

Public act.

37 Geo. 3, c. 143.
So much of recit-
ed act as requires
the justices at
quarter sessions
to appoint per-
sons to examine
weights, &c. re-
pealed, and Jus-
tices at their pet-
ty sessions may
appoint such ex-
aminers.

Examiners, when
directed by the
justices, to visit
shops, &c. and
seize false
weights, &c.

Sect. 5. "Provided, that any person or persons convicted of an offence under this act, and who shall suffer for the same under this act, shall not be otherwise punished for such offence by virtue of any other law or statute of this realm."

Sect. 6. "Provided also, that this act, or anything herein contained, shall not extend, or be construed to extend, to lessen or prevent the authority which any person or persons, bodies politic or corporate, or any person appointed at any court leet for any hundred or manor, may have or possess for the examining, regulating, seizing, breaking, or destroying any weights or balances within their respective jurisdictions, but that he, she, and they, shall and may have and possess the same power and authority therein as if this act had not been made."

Sect. 7. And, for the more effectually carrying this act into execution, it is enacted, "that it shall and may be lawful to and for the said justices, and they are hereby empowered and required, as soon after the passing of this act as may be convenient, to purchase, or cause to be purchased, for the use of their respective counties, ridings, or divisions, out of the general county rate, proper weights according to the standard in the Exchequer; which shall be deposited for the inspection of all persons, either with the respective clerks of the peace, or with some proper person, in such safe and convenient place or places, within their respective counties, ridings, or divisions, as the said justices shall direct; and shall be produced by the person or persons in whose custody the same shall be lodged (upon reasonable notice), at such time and place as any person or persons shall, by writing under their respective hands, require and appoint; the person or persons so requiring the production of the said weights paying the reasonable costs and charges of producing the same."

Sect. 8. "Provided also, that no person or persons shall be prosecuted for any offence against this act, unless information thereof, upon oath, shall have been given to some justice of the peace within one month after the offence committed."

Sect. 9 makes it a public act.

The 37 Geo. III. c. 143, s. 1, repeals so much of the 35 Geo. III. c. 102, as requires the justices, at the quarter-sessions of the peace, to appoint persons to examine the weights and balances within their respective counties, &c., and which authorizes the persons so appointed to search for and examine all weights and balances, and to seize and destroy false or unequal weights or balances, and imposes a penalty on the persons in whose possession the same shall be found; and enacts, "that it shall and may be lawful to and for the justices of the peace, at their respective petty sessions, within the divisions, districts, and other places of the several counties in England and Wales, to appoint one or more person or persons, who shall have power to examine the weights and balances within such divisions, districts, and other places respectively."

It should be observed, that this statute must be construed so as to have been capable of being carried into immediate effect when it passed, and at which time the justices in petty sessions could appoint the examiners of weights and balances only for such divisions and districts as were then known and recognized; they cannot now subdivide such districts, and appoint distinct officers; where a rule therefore was obtained for a *mandamus*, calling upon the justices of the county to allow a compensation out of the county rate to an examiner of weights and measures so illegally appointed, it was discharged with costs. *R. v. Justices of Devon*, 1 B. & A. 588.

Sect. 2. "That it shall and may be lawful to and for the person or persons so to be appointed as aforesaid, and they are hereby required (having first been sworn duly and faithfully to execute the office in him or them reposed by virtue of such appointment, and of this act, which oath such justices are hereby authorized and empowered to administer), as often as the said justices shall direct, in the day-time, to enter into the shop, mill, house, outhouses, and other premises near to such shop, mill, or house, and into the stall or standing-place of any person or persons who sell by retail and weight any wares, provisions, goods, or chattels whatsoever, and then and there to search for, view, and examine the weights and balances in such shop, mill, house, outhouses, premises, stall, or standing-place, and to seize any weight or weights, not being according to the

III.] *Provisions as to Examination of Weights, &c.*

1011

standard in the Exchequer, or any false or unequal balance or balances, which shall, upon such search, be found therein, and to detain the same, to be produced before the justices in petty sessions as aforesaid, upon the hearing of the information or informations hereinafter mentioned; and the person or persons, in whose shop, mill, house, outhouses, premises, stall, or standing-place, any such defective weight or weights, or any such false or unequal balance or balances, shall be found (against whom for such offence or offences an information or informations is and are hereby directed to be preferred), shall, upon conviction thereof in petty sessions as aforesaid, upon view or confession, or upon the oath of one or more credible witness or witnesses, forfeit and pay, for every such offence, any sum of money not exceeding 20s., nor less than 5s., as the said justices, before whom such person or persons shall have been convicted, shall in their discretion order and adjudge, together with the costs and charges attending such conviction; such forfeiture, together with such costs and charges, to be levied by warrant under the hands and seals of the said justices, by distress and sale of so much of the goods and chattels of the person or persons offending, as shall be sufficient to pay the said penalty, and also the expenses of making such distress and sale."

Sect. 3. "That, on the conviction of such offender or offenders, the said justices shall cause such defective weight or weights, or such false or unequal balance or balances, so produced before them, to be forthwith broken and rendered useless, and the materials thereof to be sold, and the money arising from such sale, together with the amount of the forfeiture or forfeitures, to be paid by them to the treasurer of such county, riding, or division, to be by him applied towards the expenses of carrying the said recited act and this act into execution, and the residue (if any) on account of the public stock of such county, riding, or division; and the said justices shall also prepare, or cause to be prepared, returns of the forfeitures levied by them in pursuance of the said before-recited act, and of this act, and also of the sums arising from the sale of such defective weights, and false and unequal balances, and shall transmit such returns, signed by them, to the clerk of the peace for such county, riding, or division respectively, at every general quarter-sessions of the peace to be held for such county, riding, or division."

Sect. 4. "Provided, that if the majority of the inhabitants of any parish, township, or place within such county, riding, or division, should be desirous that any person or persons shall be specially appointed to examine the weights and balances within such parish, township, or place, it shall and may be lawful for such inhabitants, and they are hereby empowered (at a vestry to be duly holden for that purpose) to nominate one or more substantial householder or householders, to be approved of and appointed by the said justices, at their respective petty sessions for the division or district wherein such parish, township, or place shall lie; which person or persons so nominated, approved, and appointed, shall have the same powers and authorities within such parish, township, or place, as are vested in the person or persons appointed for any district, division, or place respectively."

Sect. 5. "Provided, that no appointment for such parish, township, or place shall be made, until the inhabitants thereof have procured, or caused to be procured, *the proper weights*, according to the standard in the Exchequer, for the use of such parish, township, or place, to be deposited in the custody of the person or persons appointed as last mentioned; and that it shall and may be lawful for the said justices, in their respective petty sessions, to order and direct the costs and charges of procuring such weights, and the recompense and satisfaction to be allowed to such person or persons, for his or their time and trouble in the execution of such office, within such parish, township, or place, to be paid out of the rate made for the relief of the poor, within such parish, township, or place."

Sect. 6. "That all the clauses, powers, and provisions contained in the said

PROVISIONS AS TO EXAMINATION OF WEIGHTS, &c.

37 Geo. 3, c. 143.
Penalty for having false weights, &c. (a)

Justices to cause false weights, &c. to be broken, and the produce of the materials and the forfeitures to be paid to the county treasurer, &c.

If the majority of inhabitants wish that any persons should be specially appointed examiners, they may in vestry nominate them for approbation of the justices.

But no such appointment shall be made till the inhabitants have procured standard weights, the costs of which, and the recompense to the examiners, to be paid out of the poor's rates.

Powers of recited act (except here-by altered), to remain in force.

(a) It is a misdemeanor at common law to sell by false weights. See *Chitts*, vol. I. p. 600, 601.

PROVISIONS AS
TO EXAMINA-
TION OF
WEIGHTS, &c.

Proceedings not
to be removed.

Justices to cause
convictions to be
made out in the
following form.

recited act (except such as are hereby repealed or altered) shall continue in force, in the same manner as if the same were repealed and re-enacted in the body of this present act; anything herein contained to the contrary thereof in anywise notwithstanding."

Section 7. "That no proceedings to be had touching the conviction of any offender or offenders against the said recited act, or this act, shall be removed by writ of *certiorari*, or by any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

Section 8. "That the justices of the peace before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following, or in any other form of words to the same effect, *mutatis mutandis*; (that is to say)—

"Be it remembered, that on the _____ day of _____, in the year of our Lord _____, at a petty sessions holden for the [division or district] of _____, in the said [county, riding, or division], before A. B. and C. D., justices of the peace acting in and for the said _____, E. F., of _____, in the said _____, was duly convicted before us, the said justices, for that he, the said E. F., on the _____ day of _____ now last past, at _____, in the said _____, contrary to the form of the statute in that case made and provided [here state the offence against the act]; and we, the said justices, do declare and adjudge, that the said E. F. hath forfeited the sum of _____, of lawful money of Great Britain, for the offence aforesaid, to be applied as the law directs, and also the further sum of _____, of like lawful money, for the reasonable costs and charges attending this conviction.

"Given under our hands and seals, on the day and in the year first mentioned."

Public act.

Section 9 makes it a public act.

55 Geo. 3, c. 43.

By the 55 Geo. III. c. 43, intituled, "An Act for the more effectual Prevention of the Use of false and deficient Measures," after reciting that, "whereas the laws now in force for the regulation of measures have been found ineffectual for that purpose, and frauds are frequently committed by persons using false and deficient measures, by which the poor in particular are greatly injured; and it would tend to prevent such pernicious and fraudulent practices, if the justices of the peace throughout England and Wales were empowered to appoint proper persons to examine the measures within their respective jurisdictions, and to punish such persons as shall be found offending in the premises:" it is enacted, "that, from and after the passing of this act, it shall be lawful for the justices of the peace of the several counties, ridings, divisions, cities, boroughs, and towns corporate, of England and Wales, at their respective petty sessions, to appoint one or more person or persons, who shall have power to examine the measures within their several divisions, districts, and limits."

Justices may ap-
point proper per-
sons to examine
measures within
several divisions.

Examiners duly
appointed, may
enter shops, &c.
in search of false
measures, and
seize same.

Information.

Section 2. "That it shall and may be lawful to and for the person or persons so to be appointed as aforesaid, and they are hereby required (having been first sworn duly and faithfully to execute the office in him or them reposed in virtue of such appointment and of this act, which oath such justices are hereby authorized and empowered to administer), as often as such justices shall direct, in the day-time to enter into the shop, house, outhouses, and other places near to such shop or house, and into the stall or standing-place of any person or persons within their respective divisions or limits, who shall sell by retail, and by any measure of capacity, any liquid or dry goods, or other article whatsoever, and then and there to search for, view, and examine all measures of capacity in such shop, house, outhouse, premises, stall, or standing-place, and to seize any such measure or measures not being according to the standard in the Exchequer, which shall upon such search be found therein, and to detain the same, to be produced before the justices in petty sessions as aforesaid, upon the hearing of the information or informations herein mentioned; and the person or persons in whose shop, house, outhouses, premises, stall, or standing-place, any such deficient measure or measures shall be found (against whom for such offence or offences an information or informations is and are hereby directed to be preferred), shall, upon conviction thereof in petty sessions as aforesaid, upon view or confession, or upon the oath of one or more credible witness or wit-

nesses, forfeit all such false and deficient measures, which measures so forfeited shall be broken and otherwise disposed of as such justices before whom such conviction shall have taken place, shall order and direct; and shall also forfeit and pay for every such false or deficient measure any sum of money not exceeding 20s. nor less than 5s., as the said justices, before whom such person or persons shall have been convicted, shall in their discretion order and adjudge, together with the costs and charges attending such conviction; such forfeiture, together with such costs and charges, to be levied by warrant under the hands and seals of the said justices, or the hand and seal of one of them, by distress and sale of so much of the goods and chattels of the person or persons offending as shall be sufficient to pay the said penalty, and the expenses of such distress and sale; and in case no such sufficient distress can be found, and such penalties and forfeitures, with the said costs and charges, shall not be forthwith paid, it shall be lawful for such justices, or either of them, and they and he are and is hereby authorized and required, by warrant under their or his hands and seals, or hand and seal, to commit such offender or offenders to the gaol or house of correction of the limit where the offence shall be committed, for any time not exceeding one month, unless the penalties, costs, and charges in which such offender or offenders shall be convicted, shall be sooner paid."

Sect. 3. "That if any person shall wilfully obstruct, hinder, resist, or in any wise oppose any of the persons hereby authorized and empowered to view and examine such measures in the execution of his office; or if any person selling or retailing by measure, shall refuse to produce his or her measures in order to be viewed and examined, he or she who shall so offend, shall, for every such offence, on being duly convicted on oath before any one or more justice or justices of the peace, forfeit and pay any sum not exceeding 5*l.*, nor less than 40*s.*, as the justice or justices before whom any such offender shall be convicted, shall adjudge; and such forfeiture or penalty shall be levied and recovered in the manner hereinbefore directed."

"Sect. 4. "That, on the conviction of any offender or offenders against this act, the justice or justices before whom such conviction shall take place, shall cause the amount of the forfeiture or forfeitures which shall be levied or paid by virtue of any such conviction, to be applied towards the expenses of carrying this act into execution, and the residue (if any) to be paid to the treasurer of the county, riding, division, city, borough, or town corporate, on account of the public stock thereof; and the said justices shall also prepare, or cause to be prepared, returns of the forfeitures levied by them in pursuance of this act, and shall transmit such returns signed by them to the clerk of the peace, at every general quarter-sessions of the peace."

Sect. 5. "That it shall and may be lawful to and for the justices, at their general quarter-sessions, to allow to such person or persons as shall be appointed to examine measures under this act, a reasonable recompense or satisfaction for their trouble in the execution of the said office; such recompense or satisfaction to be paid to such person or persons out of the general rate or stock of any such county, riding, division, city, borough, or town corporate."

Sect. 6. "That it shall and may be lawful to and for the said justices, and they are hereby empowered and required, as soon after the passing of this act as may be convenient, to purchase or cause to be purchased, for the use of their respective counties or other limits, out of the general rate or stock of such county or other limit, proper measures, duly marked, according to the standard in the Exchequer; which shall be deposited either with the respective clerks of the peace, or some other proper person, in such safe and convenient place or places within their respective limits, as the said justices shall direct; and shall be produced by the person or persons in whose custody the same shall be lodged (upon reasonable notice), at such time and place as any person or persons shall, by writing under their respective hands, require and appoint; the person or persons so requiring the production of the said measures paying the reasonable costs and charges of producing the same."

"Sect. 7. "Provided, that if the majority of the inhabitants of any parish, township, or place, should be desirous that any person or persons shall be specially appointed to examine the measures within such parish, township, or

PROVISIONS AS
TO EXAMINA-
TION OF
WEIGHTS, &c.

55 Geo. 3, c. 43.
Penalty.

Warrant.

Imprisonment.

Obstructing, &c.
any examiner of
measures, or not
producing mea-
sures for exami-
nation.

Penalty.

Justices to apply
forfeitures to
wards expenses
of act.

Returns of for-
feitures made.

Examiners al-
lowed reasonable
recompense for
trouble.

Justices to pur-
chase proper mea-
sures for use of
respective coun-
ties, &c. deposited
with clerks of
peace.

Majority of Inha-
bitants of parish,
&c. empowered
to nominate five
householders as
examiners.

5 Geo. 4, c. 74.

place, it shall and may be lawful for such inhabitants, and they are hereby empowered (at a vestry to be duly holden for that purpose) to nominate five or more substantial householder or householders, to be approved of and appointed by the said justices at their respective petty sessions, for the division or district wherein such parish, township, or place shall lie; which person or persons so nominated, approved, and appointed, shall have the same powers and authorities, within such parish, township, or place, as are vested in the person or persons appointed for any district, division, or place respectively."

No appointment of such examiners to take place, until proper measures are procured by inhabitants.

Sect. 8. "Provided, that no appointment for such parish, township, or place, shall be made until the inhabitants thereof shall have procured, or caused to be procured, the proper measures, duly marked, according to the standard in the Exchequer, for the use of such parish, township, or place, to be deposited in the custody of the person or persons to be appointed as last mentioned; and that it shall and may be lawful for the said justices, in their respective petty sessions, to order and direct the costs and charges of procuring such measures, and the recompense and satisfaction to be allowed to such person or persons for his or their time and trouble in the execution of such office, within such parish, township, or place, to be paid out of the rate made for the relief of the poor within such parish, township, or place."

Certiorari.

Sect. 9. "That no proceedings to be had touching the conviction of any offender or offenders against this act shall be removed by writ of *certiorari*, or by any other writ or process whatsoever, into any of his majesty's courts of record at Westminster."

Conviction.

Sect. 10. "That the justice or justices of the peace before whom any offender shall be convicted, as aforesaid, shall cause the conviction to be made out in the manner and form following, or in any other form of words to the same effect, *mutatis mutandis*; that is to say,

Form of conviction.

"Be it remembered, that on the _____ day of _____, in the year of our Lord _____, at a petty sessions holden at _____, for _____, before us, A. B. and C. D., justices of the peace acting in and for the said _____, E. F., of _____, in the said _____, was duly convicted before us, the said justices, for that he, the said E. F., on the _____ day of _____ now last past, at _____, in the said _____, contrary to the form of the statute in that case made and provided [here state the offence against this act]; and we, the said justices, do declare and adjudge, that the said E. F. hath for such offence forfeited the said [several] measures [_____], and hath also forfeited the sum of _____, of lawful money of Great Britain, to be applied as the law directs, and the further sum of _____, of like lawful money, for the reasonable costs and charges attending this conviction. Given under our hands and seals, on the day and in the year first mentioned."

Proviso for persons convicted and suffering for same.

Sect. 11. "Provided, that any person or persons convicted of an offence under this act, and who shall suffer for the same under this act, shall not be otherwise punished for such offence by virtue of any other law or statute of this realm."

Bodies politic, &c. to have same power of examining, &c. measures as formerly.

Sect. 12. "Provided, that this act, or anything herein contained, shall not extend or be construed to extend to lessen or prevent the authority which any person or persons, bodies politic or corporate, or any person appointed at any court leet for any hundred or manor, may have or possess for the examining, regulating, seizing, breaking, or destroying any measures within their respective jurisdictions; but that he, she, and they shall and may have and possess the same power and authority therein, as if this act had not been made."

No prosecution unless on information on oath.

Sect. 13. "Provided, that no person or persons shall be prosecuted for any offence against this act, unless information thereof upon oath shall have been given to some justice of the peace, within six weeks after the offence committed."

IV. General Clauses of the 5 Geo. IV. c. 74.

5 Geo. 4, c. 74.

By sect. 21. "That all the powers, rules, and regulations in force, and contained in the several acts hereinafter mentioned, specified, and set forth, for the ascer-

taining, examining, seizing, breaking, and destroying any weights, balances, or measures, shall be applied and put in execution in Great Britain for the ascertaining and examining, and for the seizing, breaking, and destroying of any weights or measures not conformable to the standard weights and measures ascertained and authorized by this act, and for the punishment of any person or persons having any defective weight or measure, not conformable to the said standard weights and measures: that is to say, in an act made in the Parliament of Great Britain, in the twenty-ninth year of King George the Second, intituled, 'An Act for appointing a sufficient number of Constables for the service of the City and Liberty of Westminster, and to compel proper Persons to take upon them the office of Jurymen, to prevent Nuisances and other Offences within the said City and Liberty;' and in an act made in the thirty-first year of the reign of King George the Second, for explaining, amending, and rendering more effectual the said recited act of the twenty-ninth year; and in an act made in the Parliament of Great Britain, in the thirty-fifth year of the reign of his late majesty King George the Third, intituled, 'An Act for the more effectual Prevention of the use of defective Weights, and of false and unequal Balances;' and in an act made in the Parliament of Great Britain, in the thirty-seventh year of his said late majesty's reign, for explaining and amending the said recited act of the said thirty-fifth year, and as the said recited act of the said thirty-fifth year is amended by the said act of the said thirty-seventh year; and in an act made in the Parliament of the United Kingdom of Great Britain and Ireland, in the fifty-fifth year of the reign of his said late majesty, intituled, 'An Act for the more effectual Prevention of the use of false and deficient measures;' and all the powers, rules, regulations, provisions, penalties, and forfeitures in the said several acts contained, shall be applied and put in execution as if the weights or measures ascertained by this act had been specified in the said recited acts respectively, and as if all such powers, rules, regulations, provisions, penalties, and forfeitures, and modes of recovery thereof, were repeated and re-enacted in this act, except only so far as the said recited acts, or any of them, or any part thereof, are expressly repealed or altered by this act, or any other act or acts."

5 Geo. 4, c. 74.

Regulations and penalties of British acts, viz.

29 Geo. 2, c. 25.

31 Geo. 2, c. 17.

35 Geo. 3, c. 10 2.

37 Geo. 3, c. 14 3.

55 Geo. 3, c. 43.

shall be applied to this act.

Sect. 22. "That all the powers, rules, and regulations in force and contained in the several acts hereinafter mentioned, specified, and set forth, passed in the Parliament of Ireland, shall be applied and put in execution in Ireland, for the ascertaining and examining, and for the seizing, breaking, and destroying of any weights or measures not conformable to the standard weights and measures ascertained and authorized by this act, and for the punishment of any person or persons having any defective weight or measure, or any weight or measure not conformable to the said standard weights and measures, and for the carrying into effect the several provisions of the said recited acts with reference to the said standard weights and measures: that is to say, in an act made in the fourth year of the reign of Queen Anne, for regulating the weights used in Ireland; and in an act made in the eleventh year of the reign of King George the Second, for the buying and selling all sorts of corn and meal, and other things in the said act mentioned, by weight; and in an act made in the twenty-fifth year of the reign of King George the Second, intituled, 'An Act for buying and selling all sorts of Corn and Meal, and other things therein mentioned, by weight, and for the more effectual preventing the Frauds committed in the buying and selling thereof;' and in an act made in the twenty-seventh year of the reign of his late majesty King George the Third, intituled, 'An Act for establishing Market Juries in Cities,' and which said last-mentioned act was by an act made in the twenty-eighth year of his said late majesty's reign extended to all counties of towns and corporate towns in Ireland; and all the powers, rules, and regulations, provisions, penalties, and forfeitures in the said several acts contained, shall be applied and put in execution, as if the weights or measures ascertained by this act had been specified in the said recited acts respectively, and as if such powers, rules, regulations, provisions, penalties, and forfeitures, and the modes of recovery thereof, were repeated and re-enacted in this act, except only so far as the said recited acts or any of them, or any part thereof, are expressly repealed or altered by this act, or any other act or acts."

Regulations and penalties of the following acts, viz.

4 Anne, (1.)

11 Geo. 2, (1.)

25 Geo. 2, (1.)

27 Geo. 3, (1.)

28 Geo. 3, (1.)

shall be applied to this act.

5 Geo. 4. c. 74.

So much of former statutes, ordinances, or acts, as relate to establishing weights or measures, repealed, viz.

Sect. 23. "That the several statutes, ordinances, and acts, and parts of the several statutes, ordinances, and acts hereinafter mentioned and specified, so far as the same relate to the ascertaining or establishing any standards of weights and measures, or to the establishing or recognizing certain differences between weights and measures of the same denomination, shall, from and after the first day of May, 1825, be repealed: that is to say, certain ancient statutes or ordinances made previous to the reign of King Edward the Third, but being of uncertain date, intitled or known by the names or descriptions following: '*Assisa Panis et Cervisie*,' or 'The Assize of Bread and Ale;' '*Statutum de Pistoribus, et cetera*,' or 'Statute concerning Bakers, et cetera;' '*Assisa de Ponderibus et Mensuris*,' or '*Tractatus de Ponderibus*,' or '*Compositio de Ponderibus*,' or 'Assize of Weights and Measures;' '*Statutum de Admensuratione Terre*,' or 'Statute for the Measuring of Land;' '*Compositio Ulnarum et Perticarum*;' and also so much of a statute made in the fourteenth year of the reign of King Edward the Third, as relates to the making of bushels and weights, and sending the same into every country; and also so much of the said last-mentioned statute as directs that the sack of wool ought to contain twenty-six stones, and every stone fourteen pounds; and also so much of a statute made in the eighteenth year of the reign of the said King Edward the Third, as relates to commissioners to assay weights and measures; and also so much of a statute made in the Parliament summoned at Westminster on the feast of St. Hilary, in the twenty-fifth year of the reign of the said King Edward the Third, as relates to auncel weight, and the weight of the sack of wool, and as relates to the bushel, half-bushel, peck, gallon, pottle, and quart, and to the quarter and measure of corn; and also so much of the statute or ordinance of the staples, made in the twenty-seventh year of the reign of the said King Edward the Third, as relates to the uniformity of weights and measures throughout the realm; and also so much of a statute made in the thirty-first year of the reign of King Edward the Third, as relates to the regulating the price and weight of wools, and as relates to the tun of wine and the gauging thereof; and also so much of a statute made in the thirty-fourth year of the reign of King Edward the Third, whereby justices of the peace are empowered to inquire of weights and measures; and also so much of a statute made in the fourth year of the reign of King Richard the Second, as relates to the gauging of vessels and wine, honey, oil, and other liquors brought into the realm; and also so much of a statute made in the thirteenth year of the reign of King Richard the Second, as relates to the regulating of weights and measures, and to the buying and selling of wool at fourteen pounds the stone; and also so much of a statute made in the fifteenth year of the reign of King Richard the Second, as relates to weights and measures of corn, wine, ale, and malt; and also so much of a statute made in the sixteenth year of the reign of King Richard the Second, as relates to the clerk of the market, and the assay of weights and measures made by him, and the using such weights and measures; and also so much of a statute made in the first year of the reign of King Henry the Fifth, as concerns the true measure of corn, or as is intitled, '*An Act concerning the true Measure of Corn*;' and also so much of a statute made in the second year of the reign of King Henry the Sixth, as relates to the several measures of vessels of wine, eels, herrings, and salmon; and also so much of a statute made in the eighth year of the reign of King Henry the Sixth, as relates to the confirming and amending former statutes concerning weights and measures, and requiring common balances and weights to be kept in all cities, boroughs, and towns; and also so much of a statute made in the ninth year of the reign of King Henry the Sixth, as relates to the explaining the said statute of the eighth year of King Henry the Sixth, concerning weights and measures, so far as relates to the burgesses of Dorchester; and also so much of the said statute made in the ninth year of King Henry the Sixth, as relates to the weight of a wey of cheese; and also so much of a statute made in the eleventh year of the reign of King Henry the Sixth, as relates to the confirming and amending former statutes concerning weights and measures; and also so much of a statute made in the eighteenth year of the reign of King Henry the Sixth, as relates to the gauging of vessels of wine, oil, and honey; and also so much

Statutes of uncertain date.

14 Edw. 3, st. 1, c. 12.

Id. c. 21.

18 Edw. 3, st. 2, c. 4.

25 Edw. 3, st. 5, c. 9, 10.

27 Edw. 3, st. 2, c. 10.

31 Edw. 3, st. 1, cc. 2, 5.

34 Edw. 3, c. 5.

4 Rich. 2, c. 1.

13 Rich. 2, st. 1, c. 2.

15 Rich. 2, c. 4.

16 Rich. 2, c. 3.

1 Hen. 5, c. 10.

2 Hen. 6, c. 11.

8 Hen. 6, c. 5.

9 Hen. 6, c. 6.

Id. c. 8.

11 Hen. 6, c. 8.

6 Hen. 6, c. 17.

of a statute made in the twenty-second year of King Edward the Fourth, as relates to the packing of barrelled fish, or as is intituled, 'An Act for packing of Barrelled Fish;' and also the whole of an act made in the first year of the reign of King Richard the Third, intituled, 'An Act to ascertain the Contents of Vessels of Wine and Oil,' or 'An Act for the Contents of a But of Malmsey;' and also an act made in the seventh year of the reign of King Henry the Seventh, intituled, 'An Act for Weights and Measures;' and also another act made in the same seventh year of the reign of King Henry the Seventh, intituled, 'An Act to pay Custom for every But of Malmsey;' and also an act made in the eleventh year of the reign of King Henry the Seventh, intituled, 'An Act for Weights and Measures;' and also an act made in the twelfth year of the reign of King Henry the Seventh, intituled, 'An Act for Weights and Measures;' and also an act made in the twenty-third year of the reign of King Henry the Eighth, intituled, 'An Act that no Brewers of Beer or Ale shall make their Barrels, Kilderkins, or Firkins within them, and how much the same Barrels, &c. shall contain;' and also an act made in the twenty-fourth year of the reign of King Henry the Eighth, intituled, 'An Act concerning the Sale of Wines;' and also an act made (in the Parliament of Ireland) in the twelfth year of the reign of Queen Elizabeth, intituled, 'An Act for the establishing the Standard of Measures for Corn within certain Shires of this Realm;' and also so much of an act made in the thirteenth year of the reign of Queen Elizabeth, intituled, 'An Act for the Maintenance of the Navigation,' as relates to the assize of herring barrels; and also so much of an act made in the twenty-third year of the reign of Queen Elizabeth, intituled, 'An Act touching the true Melting, Making, and Working of Wax,' as relates to the barrel, kilderkin, or firkin of honey; and also the whole of an act, made in the forty-third year of Queen Elizabeth, intituled 'An Act concerning the Assize of Fuel;' and also an act made in the sixteenth year of the reign of King Charles the First, intituled, 'An Act for the better ordering and regulating of the Office of Clerk of the Market, allowed and confirmed by this Statute; and for the Reformation of false Weights and Measures;' and also so much of an act made in the twelfth year of the reign of King Charles the Second, intituled, 'A Grant of certain Impositions upon Beer, Ale, and other Liquors, for the Increase of His Majesty's Revenue during his Life,' as relates to the contents of the barrel of beer and ale; and also an act made in the twenty-second year of the reign of King Charles the Second, intituled, 'An Act for ascertaining the Measures of Corn and Salt;' and also an act made in the Parliament holden in the twenty-second and twenty-third years of the reign of the said King Charles the Second, intituled, 'An additional Act for ascertaining the Measures of Corn and Salt;' and also so much of an act made in the first year of the reign of King William and Queen Mary, intituled, 'An Act for an additional Duty of Excise upon Beer or Ale, and other Liquors,' as relates to the contents of the barrel of beer and ale; and also so much of an act made in the fifth and sixth years of the reign of King William and Queen Mary, made, among other things, for granting to their majesties certain rates and duties upon salt, and upon beer, ale, and other liquors, as relates to the measure and weight of salt; and also an act made (in the Parliament of Ireland) in the seventh year of the reign of King William the Third, for the better regulating of measures in and throughout that kingdom; and also so much of an act made in the seventh and eighth years of the reign of King William the Third, made, among other things, for continuing to his majesty certain duties upon salt, glass wares, and earthen wares, as relates to the measure and weight of salt; and also the whole of an act made in the ninth and tenth years of the reign of King William the Third, intituled, 'An Act that all Retailers of Salt shall sell by Weight;' and also so much of an act made in the tenth and eleventh years of the reign of King William the Third, made, among other things, for levying further duties upon sweets, and for lessening the duties as well upon vinegar as upon certain low vines, as relates to the contents of a barrel of vinegar, vinegar beer, or liquor preparing for vinegar; and also so much of another act made in the same tenth and eleventh years of the reign of the said King William the Third, intituled, 'An Act for the more full and effectual charging of the Duties upon

5 Geo. 4. c. 74.

22 Edw. 4. c. 2.

1 Rich. 3. c. 13.

7 Hen. 7. c. 4.

Id. c. 8.

11 Hen. 7. c. 4.

12 Hen. 7. c. 5.

23 Hen. 8. c. 4.

24 Hen. 8. c. 6.

12 Eliz. (1.)

13 Eliz. c. 11, in part.

23 Eliz. c. 8, in part.

43 Eliz. c. 14.

16 Car. 1. c. 19.

13 Car. 2. c. 23, in part.

22 Car. 2. c. 8.

22 & 23 Car. 2. c. 12.

1 W. & M. st. 1, c. 24, in part.

5 & 6 W. & M. c. 7, in part.

7 Wll. 3. (1.)

7 & 8 W. & M. c. 31, in part.

9 & 10 Wll. 3. c. 6.

10 & 11 Wll. 3. c. 21, in part.

10 & 11 Wll. 3. c. 23, in part.

- 5 Geo. 4, c. 74.
11 & 12 W. 3,
c. 15.
- 1 Anne, st. 1,
c. 18.
Id. c. 21, in part.
- 2 Anne, (1.)
- 5 & 6 Anne, c.
27, in part.
- 9 Anne, c. 6, in
part.
- 9 Anne, c. 15.
- 10 Anne, c. 6.
- 1 Geo. 2, (1.) in
part.
- 8 Geo. 2, c. 12,
in part.
- 9 Geo. 2, (1.)
- 24 Geo. 2, c. 31,
in part.
- 26 Geo. 2, (L)
- 28 Geo. 2, c. 89,
in part.
- 43 Geo. 3, c. 69,
in part.
- Rock Salt, as relates to the weight or measure of rock salt; and also the whole of an act made in the eleventh and twelfth years of the reign of King William the Third, intituled, 'An Act for the ascertaining the Measures for retailing Ale and Beer;' and also an act made in the first year of the reign of Queen Anne, intituled, 'An Act to ascertain the Water Measure of Fruit; and also so much of an act made in the same first year of the reign of Queen Anne, intituled, 'An Act for preventing Frauds in the Duties upon Salt, and for the better Payment of Debentures at the Custom-House,' as relates to the weight and measure of foreign salt and rock salt; and also an act made (in the Parliament of Ireland) in the second year of the reign of Queen Anne, for supplying the defects of the hereinbefore recited act, passed in the Parliament of Ireland in the seventh year of the reign of King William the Third; and also so much of an act made in the fifth and sixth years of the reign of Queen Anne, intituled, 'An Act for continuing several Subsidies, Impositions, and Duties, and for making Provisions therein mentioned, to raise Money by way of Loan for the Service of the War, and other Her Majesty's necessary and important Occasions, and for ascertaining the Wine Measure,' as relates to the contents of the gallon, tun, butt, pipe, and hogshead of wine; and also so much of an act made in the ninth year of the reign of Queen Anne, made, among other things, for reviving, continuing, and appropriating certain duties upon several commodities to be exported, and certain duties upon coals to be waterborne and carried coastwise, as relates to the chaldron or chaldre, and bushel of coals; and also the whole of an act made in the said ninth year of the reign of Queen Anne, for making more effectual the hereinbefore-recited act of the forty-third year of the reign of Queen Elizabeth, concerning the assize of fuel; and also an act made in the tenth year of the reign of Queen Anne, intituled, 'An Act for explaining and altering the Laws now in being concerning the Assize of Fuel, so far as they relate to the Assize of Billet made, or to be made, of Beech Wood only; and also so much of an act made (in the Parliament of Ireland) in the first year of the reign of King George the Second, intituled, 'An Act for preventing Combinations to enhance the Prices, and for avoiding Exactions and Abuses formerly practised in the Sale and Measure of Coals,' as relates to the dimensions of the half-barrel, bushel, half-bushel, peck, or half-peck of coals; and also so much of an act made in the eighth year of the reign of King George the Second, made, among other things, for granting and continuing the duties upon salt and upon red and white herrings, as relates to the computation of the distance in miles between the pits and refiners of rock salt; and also an act made (in the Parliament of Ireland) in the ninth year of the reign of King George the Second, intituled, 'An Act for the ascertaining the Gauge and the Measure of Barrels and Half-Barrels used by Brewers in selling Beer, Ale, and Small Beer; and also so much of the statute made in the twenty-fourth year of the reign of King George the Second, intituled, 'An Act for explaining, amending, and enforcing an Act passed in the Thirteenth Year of His late Majesty's Reign, intituled, An Act for the better Regulation of the Linen and Hempen Manufactures in that Part of Great Britain called Scotland, and for further regulating and encouraging the said Manufactures,' as relates to the weight of hemp or flax; and also an act made (in the Parliament of Ireland) in the twenty-sixth year of the reign of his late majesty King George the Third, for preventing frauds in the measurement of lime; and also so much of an act made in the thirty-eighth year of the reign of his late majesty King George the Third, intituled, 'An Act for transferring the Management of the Salt Duties to the Commissioners of Excise, and for repealing the Duties on Salt, and the Drawbacks, Allowances, and Bounties thereon, as relates to the weight of a bushel of salt; and also so much of an act made in the forty-third year of the reign of his late majesty King George the Third, intituled, 'An Act to repeal the Duties of Excise payable in Great Britain, and to grant other Duties in lieu thereof,' as relates to the quart, gallon, and barrel of beer or ale; and all the said recited statutes or ordinances and acts, and parts of statutes and acts, so far as the same, or any of them, relate to the ascertaining or establishing any standards of weights and measures, or to the establishing or recognizing certain differences between weights and measures of the same denomination, but no farther.

ther or otherwise, shall, from and after the said first day of May, 1825, be, and the same are hereby repealed; save and except only so far as any such statutes or acts, or any part thereof, repeal any other statutes or acts, or any part thereof which relate to the ascertaining or establishing any standard of weights and measures, or to the establishing or recognizing certain differences between weights and measures of the same denomination; all which statutes and acts, or any parts thereof so repealed, shall be and remain repealed, to all intents and purposes whatever."

Sect. 24. "Provided, that nothing in this act contained shall extend, or be construed to extend, to repeal the hereinbefore recited act made in the Parliament of Great Britain, in the thirty-first year of the reign of King George the Second, nor in any manner to affect or alter the power given by the said recited act to the dean, high steward, or his deputy, and the burgesses of the city of Westminster, to appoint a proper officer to size and seal all weights and measures used by persons dealing by weight and measure in the said city of Westminster and the liberties thereof, but that all the powers given and reserved to the said dean, high steward, or his deputy and burgesses, by the said recited act, shall and may be exercised in the appointing of a proper officer to size and seal all such weights and measures as shall, from the passing of this act, be lawful, and be used by persons dealing by weight and measure within the said city and liberties of Westminster, and shall and may be used and exercised by any officer so appointed, in the same manner in all respects as is directed by the said recited act, with relation to the weights and measures in the said recited act mentioned."

FORMS.
repealed, save so far as the said acts repeal former acts relating to weights and measures.

Proviso for 31 Geo. 2, c. 17, which empowers the dean and high steward of Westminster, &c. to appoint a proper officer to size and seal weights and measures.

Forms.

(No. 1.)

_____ } The information and complaint of A. B., of, &c., preferred at a petty sessions held for the division of, &c., at _____, in the said county, before us, J. P. and S. P., Esqs., justices of the peace for the said county, acting for the said division, whose names are hereunder written, this _____ day of, &c.; who, on his oath, saith, that on the _____ day of _____, in the shop [millhouse, outhouse, &c. (see the act, ante, 1010), according to the fact], of C. D., at _____, in the said county, he, the said C. D., then and there being a person who sold by retail and weight goods, wares, and chattels, the said C. D. then and there had in his possession, and the said A. B. then and there found therein, a certain weight [or, weights], to wit, &c., which were not according to the standard in the Exchequer [or, a certain false and unequal balance, to wit, &c.], contrary to the form of the statute in that case made and provided; whereby he hath incurred the forfeiture imposed by the said statute for the said offence.

Information for having false weights, &c., contrary to the 27 Geo. 2, c. 143, and the 55 Geo. 3, c. 43.

Exhibited before us, the _____ day of _____, { J. P.
S. P.

(No. 2.)

_____ } To C. D., of, &c., in the county of, &c.
Whereas A. B., of _____, in the said county, hath this day preferred an information against you for having, on the _____ day of _____, defective weights [and a false and unequal balance], the same not being according to the standard in the Exchequer, found in your shop, [millhouse, outhouse, &c.], at _____, in the said county [according to the fact], upon search by him made, contrary to the form of the statute in that case made and provided; whereby you have incurred the forfeitures mentioned in the said statute.

Summons thereon.

These are, therefore, to require you personally to appear before us, or such other of his majesty's justices of the peace for the said county as shall be present at the petty sessions, to be holden at _____, in the said county, on, &c., at o'clock in the forenoon, then and there to answer the premises. Herein fail not. Given under our hands and seals, this _____ day of _____, A. D. 1831.

J. P. (L. S.)
S. P. (L. S.)

The 37 Geo. III. c. 143, s. 8, ante, p. 1010, gives the form of the conviction.

Conviction thereon.

FORMS.

Order for pay-
ment of penalty.

(No. 3.)

To C. D., of, &c., in the said county of .

Whereas you are this day duly convicted before us, J. P. and S. P., Esqs., two of his majesty's justices of the peace in and for the said county, for that you, being a person who did sell by retail and weight goods, wares, and chattels, on, &c., at, &c., in the said county, contrary to the form of the statute in that case made and provided, had in your shop, [millhouse, outhouse, &c., according to the fact], defective weights, &c., viz. [as in the conviction], whereby you have forfeited the sum of for the said offence, and also the further sum of , for the reasonable costs and charges attending the said conviction.

We do, therefore, hereby order you, the said C. D., to pay to I. K., of , being a person duly appointed to examine weights and balances within this division of , the said several sums of and , to be by him paid and applied as the law directs. Given under our hands and seals, this day of , A.D. 1831.

J. P. (L. S.)
S. P. (L. S.)

(No. 4.)

Warrant of dis-
tress on non-pay-
ment.

To the Constable of , in the said county, and to all others his Majesty's Officers of the Peace for the said county.

Be it remembered, that, on, &c., at a petty sessions holden for the division of , in the said county, before us, J. P. and S. P., Esqs., two of his majesty's justices of the peace in and for the said county, C. D., of , in the said county, being a person who sold by retail and weight goods, wares, and chattels, was duly convicted before us, the said justices, for that he, the said C. D., on, &c. [describe the offence as in the conviction], contrary to the form of the statutes in that case made and provided; and we, the said justices, do declare and adjudge that he, the said C. D., hath forfeited the sum of , of lawful money of Great Britain, for the offence aforesaid, to be applied as the law directs, and also the further sum of , of like lawful money, for the reasonable costs and charges attending this conviction; and whereas due demand of the said sum of hath been made of him, the said C. D., but he hath refused to pay the same.

These are, therefore, to require you forthwith to make distress of the goods and chattels of him, the said C. D.; and if, within the space of days next after such distress by you taken, the said sum of , together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and, out of the money arising by such sale, that you detain the said sum of , and also the reasonable charges of taking, keeping, and selling the said distress, rendering to him, the said C. D., the overplus on demand; and, if no such distress can be made, that then you certify the same unto us, to the end that such further proceedings may be had therein as to the law doth appertain. Given under our hands and seals, this day of , A.D. 1831.

J. P. (L. S.)
S. P. (L. S.)

(No. 5.)

Information on
58 Geo. 3, c. 43,
s. 2, for having
false measures.
(a)

Be it remembered, that, on, &c., at , A. B., of, &c., cometh to wit, before us, J. P. and S. P., two of his majesty's justices of the peace for the county aforesaid, and informeth us, that, within the space of [six weeks] now last past, to wit, on, &c., at, &c., in the county aforesaid, a certain measure, to wit, a measure intended to represent a [quart] measure, but which was not then and there according to the standard in the Exchequer, was found by him, the said A. B., in the shop [house, outhouses, and other places near to such shop or house, or a stall or standing-place] of C. D., there situate; he, the said C. D., then and there being a person who was then and there used to sell by retail, and by certain measures of capacity, divers liquid [and dry] goods; contrary to the form of the statute in such case made and provided; whereby, &c. [as usual, to the end.]

(a) The act gives the form of a conviction, ante, p. 1014.

(No. 6.)

FORMS.

State the offence thus : That C. D., of, &c., on, &c., at, &c., being then and there a person selling and retailing by measure, did, on being then and there requested by one E. F. so to do, refuse to produce his, the said C. D.'s, measures, in order to be viewed and examined by the said E. F. [or, did wilfully obstruct, hinder, resist, and oppose one E. F. in viewing and examining the measures of him, the said C. D.]; he, the said E. F., being then and there duly authorized and empowered to view and examine the same.

Information for refusing to produce measures, or obstructing inspectors, on 35 Geo. 3, c. 102, s. 2, and 55 Geo. 3, c. 42, s. 2.

(No. 7.)

A Return of Forfeitures levied by the Justices of the Peace in the County of _____, acting within the Division of _____, in the said County, in pursuance of the several Acts of Parliament made for the more effectual Prevention of the Use of Defective Weights and False and Unequal Balances, or False and Deficient Measures, between the _____ day of _____, 18____, and the _____ day of _____, following : viz.

Justices' return of penalties under 37 Geo. 3, c. 142, and 55 Geo. 3, c. 42, s. 4. (a)

Offenders' Names.	Residence.	Sums arising from Forfeitures.	Ditto, from Sale of defective Weights and false Balances, or false and deficient Measures.	Date of Conviction.	Before whom Convicted.

Whipping, Punishment of.

THE 1 Geo. IV. c. 57, s. 1, repeals the 57 Geo. III. c. 75.

Sect. 2 enacts, "that, from and after the passing of this act, judgment or sentence shall in no case whatever be given and awarded against any female or females convicted of any offence whatsoever, that such female offender or offenders do suffer the punishment of being whipped, either publicly or privately; any law, statute, or usage to the contrary notwithstanding."

1 Geo. 4, c. 57. Sentence of whipping not awarded on female offenders.

Sect. 3. That "in all cases where the punishment of whipping, either publicly or privately, on female offenders, has hitherto formed the whole or part of the judgment or sentence to be pronounced, or has in any other case been inflicted, it shall and may be lawful for the court or justice of the peace before whom any such offender shall be tried or convicted, to pass sentence of confinement to hard labour in the common gaol or house of correction, for any space of time not exceeding six months, nor less than one month; or of solitary confinement therein for any space not exceeding the space of seven days at any one time, in lieu of the sentence of being publicly or privately whipped, as to the said court or justice shall seem most proper: provided that nothing herein contained shall extend, or be construed to extend, in any manner to change, alter, or affect any punishment whatsoever which may now be by law

Instead thereof, imprisonment or solitary confinement.

Proviso for former laws, except the said punishment.

(a) *Ante*, p. 1013.

inflicted in respect of any offence, save and except only the punishment of publicly or privately whipping on female offenders, in manner as hereinbefore is enacted."

Wife.

When criminally
liable for serious
offences.

A WIFE, or *feme covert*, is so much favoured in respect of that power and authority which her husband has over her, that she shall not suffer any punishment for committing a bare theft in company with or by coercion of her husband. 1 *Haw. c. 1, s. 2.*

But if she commit a theft of her own voluntary act, or by the bare command of her husband, or be guilty of treason, murder, or robbery, in company with, or by coercion of her husband, she is punishable as much as if she were sole, because of the odiousness and dangerous consequences of these crimes. 1 *Haw. c. 1, s. 9*; 1 *Hale, 47*; *Dalt. c. 157.*

And the coercion of the husband is only a presumption till the contrary appear; for if, upon the evidence, it can clearly appear that the wife was not drawn to it by the husband, but that she was the principal actor and inciter of it, she seems to be guilty as well as the husband. 1 *Hale, 516.*

Where a wife, by the incitement of her husband, but in his absence, knowingly uttered a forged order and certificate for the receiving of prize-money, it was holden by the Court of King's Bench that they might be indicted together: the wife as principal, on the 49 Geo. III. c. 123; and the husband as an accessory before the fact, at common law. *Morris's case, 2 Leach, 1096*; 1 *Russ. 18*; *R. & R., C. C. 270.*

Upon a joint charge against husband and wife of receiving stolen goods, the wife cannot properly be convicted, if the husband is. *R. v. Archer, R. & M., C. C. 143.*

In *R. v. Martha Hughes, 1 Russ. 18*, the question of the coercion of a husband upon a wife, in the offence of forgery, came under the consideration of *Thompson, B.* The prisoner, *Martha Hughes*, was indicted for forging and uttering Bank of England notes. The principal witness stated, that, in consequence of a conversation which he had had some time before with the prisoner's husband, he went to the husband's shop; that the husband was not present, but that he saw the prisoner, who beckoned him to go into an inner room; that she followed him into the room, and that he there told her what her husband had said to him; upon which they agreed about the business, and he bought of her three 2*l.* notes, at 1*l.* 4*s.* each; that he paid her for the notes, and was to receive 8*s.* in change. He further stated, that when he was putting the notes into his pocket-book, and before he had received the change, the husband looked into the room, but did not come in, or interfere in the business, further than by saying, "Get on with you." After this, the witness and prisoner returned into the shop, where the husband was; the prisoner gave him the change, and both the prisoner and her husband cautioned him to be careful. Upon this evidence, the counsel for the prisoner objected, that she acted under the coercion of her husband; that the evidence would have been sufficient to have convicted the husband, if both the husband and wife had been on their trial; and, therefore, that the prisoner ought to be acquitted. He referred to 2 *East's P. C. 559*; 1 *Hale, 46*; *Kel. 37.* *Thompson, B.*, stopped the counsel for the prosecution, saying, "I am very clear as to the law on this point. The law, out of tenderness to the wife, if a felony be committed in the presence of the husband, raises a presumption *primâ facie*, and *primâ facie* only, as is clearly laid down by Lord *Hale* (1 *Hale, 516*), that it was done under his coercion; but it is absolutely necessary that the husband should in such case be actually present, and taking a part in the transaction. Here it is entirely the act of the wife. It is, indeed, in consequence of a communication previously with the husband, that the witness

applies to the wife; but she is ready to deal, and has on her person the articles, which she delivers to the witness. There was a putting off before the husband came; and it was sufficient if, before that time, she did that which was necessary to complete the crime. The coercion must be at the time of the act done, and then the law, out of tenderness, refers it *prima facie* to the coercion of the husband. But when the crime has been completed in his absence, no subsequent act of his (although it might possibly make him an accessory to the felony of the wife) can be referred to what was done in his absence."

Wife when criminally liable.

But where the wife is to be considered merely as the servant of the husband, she will not be answerable for the consequences of his breach of duty, however fatal, though she may be privy to his conduct. *Charles Squire*, and *Hannah*, his wife, were indicted for the murder of a boy, who was bound as a parish apprentice to the prisoner *Charles*; and it appeared in evidence that both the prisoners had used the apprentice in a most cruel and barbarous manner, and that the wife had occasionally committed the cruelties in the absence of the husband. But the surgeon who opened the body, deposed, that in his judgment the boy died from debility and want of proper food and nourishment, and not from the wounds, &c., which he had received. Upon which, *Lawrence, J.*, directed the jury, that as the wife was the servant of the husband, it was not her duty to provide the apprentice with sufficient food and nourishment, and that she was not guilty of any breach of duty in neglecting to do so; though, if the husband had allowed her sufficient food for the apprentice, and she had wilfully witholden it from him, then she would have been guilty. But that here the fact was otherwise; and, therefore, though in *foro conscientie* the wife was equally guilty with her husband, yet, in point of law, she could not be said to be guilty of not providing the apprentice with sufficient food and nourishment. *R. v. Squire and wife, Stafford Lent Assizes, 1799; 1 Russ. 16.*

Where wife a mere servant.

A wife shall not be deemed accessory to a felony for receiving her husband who has been guilty of it, as her husband shall be for receiving her; because she is under the power of her husband, and she is bound to receive him. *1 How. c. 1, s. 10; 1 Hale, 47.*

When not an accessory.

But a wife may be indicted together with her husband, and punished with him, for inferior misdemeanors, as keeping a bawdy-house; for this is an offence as to the government of the house, in which the wife has a principal share; and also such an offence as may generally be presumed to be managed by the intrigues of her sex. *1 How. c. 1, s. 12.*

Offences not capital.

So, she may be indicted for keeping a gaming-house. *R. v. Dixon, 10 Mod. 335.*

And generally a married woman shall answer as much as if she were sole for an offence, not capital, against the common law or statute; and if it be of such a nature that it may be committed by her alone, without the concurrence of her husband, she may be punished for it, without the husband, by way of indictment; which being a proceeding grounded merely on the breach of the law, the husband shall not be included in it for an offence to which he is no way privy. But if a wife incur the forfeiture of a penal statute, the husband may be made a party to an action or information for the same (as he may generally to any suit for a cause of action given by his wife), and shall be liable to answer what shall be recovered thereupon. *1 How. c. 1, s. 13.*

Penal statute.

A married woman by her own act (but not in respect of what is done by others at her command, because all such commands of hers are void) may commit a forcible entry or detainer; and upon the justice's view of the force, she shall be imprisoned therefore, and she may be fined in such case: but such fine, set upon the wife, shall not be levied upon the husband; for the husband shall never be charged for the act or default of his wife but when he is made a party to the action, and judgment given against him and his wife. *Dalt. c. 126; 9 Rep. 72; 11 Rep. 61.*

Forcible entry.

Likewise, if she shall commit any riot, or do any trespass or other wrong, she is punishable for it; and for a trespass done by the wife, or for a scandal published by her, the action lieth against both the husband and wife, and there the husband is chargeable to the damages or fine, because he is party to the

Riot or trespass.

Wife's crimes.

action and judgment. But if a wife, without her husband, be indicted of a trespass, riot, or any other wrong, there the wife shall answer and be party to the judgment only; and in such case, the fine set upon the wife shall not be levied upon the husband; yet, after the husband's death, such damages or fines shall then be levied of the wife herself; and as for imprisonment, or other corporal pain, it shall be inflicted upon the wife only, and not upon the husband for his wife's act or default. *Dalt. c. 139.*

Receiving stolen goods.

If a woman receive stolen goods into her house, knowing them so to be, or lock them up in her chest or chamber, her husband not knowing thereof; if her husband, so soon as he knoweth thereof, do forthwith forsake his house and her company, and make his abode elsewhere, he shall not be charged for her offence; whereas otherwise the law will impute the fault to him, and not to her. *Dalt. c. 157.*

Conspiracy.

A prosecution for conspiracy is not maintainable against a husband and wife only; because they are esteemed but as one person in law, and are presumed to have but one will. 1 *Haw. c. 72, s. 8.*

Carrying her away with the husband's goods.

If any man take another man's wife, with her husband's goods, against the husband's will, this is felony. *Dalt. c. 157.* See as to Abduction, Vol. I.

Wife taking the husband's goods.

But a wife herself cannot feloniously take her husband's goods; and though she take her husband's goods, and deliver them to a stranger, yet it is no felony in the stranger. *Hale's Sum. 65; 1 Haw. c. 33, s. 19.*

But she may be guilty of felony in taking her husband's goods from the possession of another party.

And if the wife steal the goods of her husband, and deliver them to B., who, knowing it, carries them away, B., being the adulterer of the wife, this would be felony in B.; for, in such case, no consent of the husband can be presumed. *Dalt. c. 157; 1 Russ. 19.*

Woman servant marrying.

If a woman, who is a servant, shall marry, yet she must serve out her time, and the husband cannot take her out of her master's service. *Dalt. c. 53.* See *Servants, ante, p. 362.*

Wife hiring to be a servant.

Also, if a married man and his wife do bind themselves to serve, they shall be compelled to serve according to their covenant or agreement. *Dalt. c. 58.*

Laying property in wife.

If a married woman live apart from her husband, upon an income arising from property vested in trustees for her separate use, a house that she has hired to live in is properly described as the dwelling-house of her husband, though he had never been in it, and she paid the rent out of her separate property. *R. v. French, R. & R., C. C. 491.*

And if a wife be living apart from her husband, in a house built by him, though she be living in adultery with another man, who paid the housekeeping expenses, it may be laid as the dwelling-house of the husband; even if the husband suspected the criminal intercourse, when he placed her to live in the house. *R. v. Wilford, R. & R., C. C. 517.*

Evidence of wife.

Husband and wife cannot be witnesses for one another; nor regularly against one another. 2 *Haw. c. 46, s. 16.* See *Evidence, Vol. II, p. 66, 67.*

Surety for the peace against husband.

But a wife may demand surety of the peace against her husband, threatening to beat her outrageously; and a husband also may have it against his wife. 1 *Haw. c. 60, s. 4.*

And in other criminal cases, the wife may be a witness against her husband, where she is the party grieved; but not in civil cases. *Dalt. c. 164.*

R. v. Earl Ferrers, 1 Burr. 631. An *habeas corpus* was issued, commanding *Laurence Earl Ferrers* to bring up the body of his countess, that she might receive the protection of the court against the said earl, and swear the peace against him if she should think proper. The earl disobeying the writ of *habeas corpus*, an attachment was granted against him. Upon which, he permitted her to come into court, and she exhibited articles of the peace against him. And the earl was obliged to enter into recognizance accordingly, himself in 5000*l.*, and two sureties in 2500*l.* each.

And a recognizance to the same effect has been entered into by a peer of the realm, within a recent date.

Husband and wife agreeing to live separate.

R. v. Mary Mead, 1 Burr. 342. An *habeas corpus* having issued at the instance of *John Wilkes, Esq.*, to bring up the body of *Mary Wilkes, wife of*

the said *John Wilkes*, and daughter of the said *Mary Mead*; *Mrs. Mead* now brought her into court. The substance of the return was, that her husband (having used her very ill) did, in consideration of a great sum which she gave him out of her separate estate, consent to her living alone, executed articles of separation, and covenanted (under a large penalty) never to disturb her, or any person with whom she should live; that she lived with her mother, at her own earnest desire; and that the writ of *habeas corpus* was taken out with a view of seizing her by force, or some other bad purpose. The court held this to be a formal renunciation by the husband of his marital right to seize her, or force her back to live with him. And they said, that any attempt of the husband to seize her by force and violence would be a breach of the peace. They also declared, that any attempt made by the husband to molest her in her present return from Westminster Hall, would be a contempt of the court; and they told the lady that she was at full liberty to go where and to whom she pleased.

A wife cannot be bound herself by recognizance, but her sureties only. *Dalt. c. 117; 3 M. & S. 1.*

Cannot be bound by recognizance.

Publicly selling or buying a wife is clearly an indictable offence. *R. v. Delasalle, 3 Burr. 1438.* And many prosecutions against husbands for selling, and others for buying, have recently been sustained, and imprisonment for six months inflicted. See form of indictment, *infra*.

Selling a wife.

As to the liability of a husband for his wife's debts, see *Chit. Jun. Contr. 38* to 50; *Bac. Ab. Baron and Feme (K.)*; *Com. Dig. Baron and Feme*; 1 *Chit. Pl. 22*. A treatise on such a subject does not fall within the compass of this work.

Debts of wife.

—The jurors for our lord the king upon their oath present, that *A. B.*, late of, &c., on, &c., at, &c., then and there being a person of a wicked, depraved, and abandoned mind and disposition, and wholly lost to a due sense of decency, morality, and religion, and intending as much as in him lay to bring into contempt the holy state of matrimony, and the duties enjoined thereby, and to vitiate and corrupt the morals of his majesty's liege subjects, and to bring them into a state of adultery, fornication, wickedness, and debauchery, with force and arms, did indecently, immorally, unlawfully, wickedly, deliberately, and wilfully, in and near certain public streets and highways there, publicly and in the presence and hearing of *E. F.*, and divers other liege subjects of our said lord the king there then being, expose to sale, and offer to sell and dispose of, for lucre and gain, one *C. D.*, then and there being the lawful wife of the said *A. B.*, and all his, the said *A. B.*'s, marital rights of and concerning the said *C. D.*, to any person or persons willing to buy and take her, for the purpose and in order that such person and persons might unlawfully cohabit with and have unlawful carnal knowledge of the said *C. D.*; and did then and there unlawfully, publicly, and in the presence and hearing of the said liege subjects, and of the said *E. F.*, endeavour to induce and persuade the said *E. F.* to purchase and take the said *C. D.* for the purpose aforesaid, and did then and there sell and dispose of the said *C. D.*, and all his, the said *C. D.*'s, marital rights of and concerning the said *C. D.*, to the said *E. F.*, for a certain sum of money, to wit, the sum of [2s. 6d.], for the unlawful purpose aforesaid; and then and there, in pursuance of the sale, unlawfully, publicly, and in the presence and view of the said liege subjects, deliver the said *C. D.* into the hands and possession of the said *E. F.*, with the intent that the said *E. F.* might unlawfully cohabit with and have carnal knowledge of the said *C. D.*, and that the said *E. F.* might commit adultery with the said *C. D.*, to the great displeasure of Almighty God,* to the great scandal and subversion of the holy state of matrimony and religion, and decency, morality, and good order, to the great corruption of the morals and manners of his majesty's liege subjects, to the great damage of the said *C. D.*, and in contempt of our said lord the king and his laws, and to the great damage and common nuisance of all the liege subjects of our said lord the king then and there residing, inhabiting, being, and passing, to the evil example of all others, and against the peace of our said lord the king, his crown and dignity. And the jurors aforesaid, on their oath aforesaid, do further present, that the said *A. B.*, on, &c., at, &c., aforesaid, contriving and intending to bring into contempt the holy state of matrimony and the duties enjoined

Indictment for publicly exposing to sale and selling a wife. (a)

Second count.

(a) In the *King v. Pardey*, 27th July, 1818, defendant was convicted for a similar offence; and see *Ld. Mansfield's* direction, cited in *R. v. Delasalle*, 3 *Burr.* 1438, *supra*.

WIFE.

Third count.

Fourth count.

Fifth count.

Sixth count.

thereby, and to vitiate and corrupt the morals of his majesty's liege subjects, with force and arms, did indecently, immorally, unlawfully, wickedly, and wilfully, publicly, in the presence, view, and hearing of the said E. F., and of divers other liege subjects of our said lord the king there then being, expose to sale and offer to sale to the said E. F., for lucre and gain, the said C. D., then and there being the lawful wife of the said A. B., for the purpose and in order that the said E. F. might unlawfully cohabit with and have unlawful carnal knowledge of the said C. D.; and did then and there unlawfully and publicly, in the presence and hearing of the said liege subjects and of the said E. F., sell to the said E. F., for a certain sum of money, to wit, the sum of [2s. 6d.], for the unlawful purpose aforesaid, and did then and there, in pursuance of the said last-mentioned sale, unlawfully, publicly, and in the presence of the said liege subjects, deliver the said C. D. unto the said E. F., with intent that the said E. F. might unlawfully cohabit with and have unlawful carnal knowledge of the said C. D., to the great displeasure of Almighty God, &c. [Conclude as in first count, from ""]

And the jurors, &c., present, that the said A. B., on, &c., at, &c., aforesaid, did indecently, immorally, unlawfully, wickedly, deliberately, and wilfully, publicly, in the presence, view, and hearing of divers liege subjects of our said lord the king then and there being, expose and offer to dispose of and deliver for money, to be therefore paid to him, the said A. B., the said C. D., then and there being his lawful wife, to any person, for the purpose of fornication, and in order that the said C. D. might commit adultery with such person; and did then and there publicly and in the presence, view, and hearing of the said liege subjects, dispose of and deliver the said C. D. to the said E. F. for a certain other sum of money, to wit, the sum of other [2s. 6d.], for the purpose last aforesaid, in contempt of our said lord the king and his laws, to the great damage and common nuisance of all the liege subjects of our said lord the king, to the evil example of all others, and against the peace of our said lord the king, his crown and dignity. Stating generally, that defendant unlawfully publicly exposed to sale, &c., and did unlawfully publicly, &c., sell the said C. D. to a certain other person to the jurors aforesaid as yet unknown, for a certain other sum of money, &c. [Conclude as in third count.] Stating, that he sold to E. F., in order that C. D. might thenceforth live separate and apart from the said A. B., and be no longer under his control, nor be supported or maintained by him, for a certain other sum of money, to wit, &c. [Conclude as in third count.] Stating generally an exposing to sale."

Wills, As to the Stealing and Destroying of, see Larceny,
Vol. III., p. 568.

Widow's, Duty on. See Taxes (Assessed.)

Wine. See Excise, Vol. II.

Witchcraft.

[9 Geo. II. c. 5.]

Prosecution for
witchcraft abol-
ished.

Pretending to
witchcraft.

BY the 9 Geo. II. c. 5, s. 3, it is enacted, "That no prosecution, suit, or proceeding, shall be commenced or carried on against any person or persons for witchcraft, sorcery, enchantment, or conjuration, or for charging another with any such offence, in any court whatsoever in Great Britain."

Sect. 4. "And, for the more effectual preventing and punishing any pretences to such arts or powers as are before mentioned, whereby ignorant per-

sons are frequently deluded and defrauded," it is further enacted, "that if any person shall pretend to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertake to tell fortunes, or pretend from his or her skill or knowledge in any occult or crafty science to discover where or in what manner any goods or chattels, supposed to have been stolen or lost, may be found, every person so offending, being thereof lawfully convicted on indictment or information in that part of Great Britain called England, or on indictment or libel in that part of Great Britain called Scotland, shall for every such offence suffer imprisonment by the space of one year, without bail or mainprize, and once in every quarter of the said year in some market-town of the proper county, upon the market day, there stand openly on the pillory (a) by the space of one hour, and also shall (if the court by which such judgment shall be given shall think fit) be obliged to give sureties for his or her good behaviour, in such sum, and for such time, as the said court shall judge proper, according to the circumstances of the offence, and in such case shall be further imprisoned until such sureties be given."

Witnesses.

SEE, in general, *Evidence*, Vol. II.

Women.

[3 Edw. I. c. 13; 20 Hen. VI. c. 9; 31 Hen. VI. c. 9; 3 Hen. VII. c. 2; 4 & 5 P. & M. c. 8; 18 Eliz. c. 7; 3 Wil. III. c. 9; 4 & 5 Wil. III. c. 24; 50 Geo. III. c. 48; 57 Geo. III. c. 71; 1 Geo. IV. c. 57, c. 115; 4 Geo. IV. c. 76.]

CONCERNING women considered as *wives*, or *femes covertes*, see *Wife*, *ante*, p. 1022.

Concerning women having two husbands, or men two wives, see *Polygamy*, *ante*.

Concerning the ravishment of women, see *Rape*, *ante*.

Concerning the abduction of women, see *Abduction*, Vol. I.

Concerning abortion, see *Abortion*, Vol. I.

Concerning the carnal knowledge of children, see *Children*, Vol. I.

By the 31 Hen. VI. c. 9, if any person take by force or otherwise, any woman sole, having any substance of lands, tenements, or movable goods, and enforce her, before she be set at liberty, to bind herself to him by statute or obligation, such bond shall be void. Forcing her to become bound.

By the 4 Geo. IV. c. 76, s. 27, no suit shall be had in any ecclesiastical court, in order to compel a celebration of marriage *in facie ecclesie*, by reason of any contract of matrimony whatsoever, whether *per verba de presenti*, or *per verba de futuro*. See, *ante*, Vol. III., tit. *Marriage*. Marriage Act.

By the 20 Hen. VI. c. 9, peeresses shall be tried as peers for treason or felony. See *ante*, *Peers*. Peeresses, how to be tried.

The judgment against a woman, in case of high treason, was not the same as against a man traitor, to be hanged, cut down alive, have the bowels taken out, and the body quartered; but it was, to be drawn to the place of execution, and there burned. Judgment in treason and felony.

And this, also, was the judgment against a woman in case of petit treason;

(a) Pillory, except in perjury and subornation thereof, is abolished by the 56 Geo. III. c. 138. See *ante*, *Pillory*.

WOMEN.	whereas the judgment against a man, for petit treason, is that he shall be hanged.
30 Geo. 3, c. 48. Punishment for high or petit treason.	But now the punishment of burning women is abolished by the 30 Geo. III. c. 48, the first section of which enacts that women, convicted of high treason or petit treason, shall not be burned, but shall be drawn to the place of execution, and be there hanged. In case of felony, the judgment is the same against both man and woman, to be hanged by the neck till dead. 2 <i>Haw. c. 48, s. 7.</i>
Plea of pregnancy.	If it is clear, that if a woman quick with child be condemned either for treason or felony, she may allege her being with child in order to get the execution respited, and thereupon the sheriff shall be commanded to take her into a private room, and to impanel a jury of matrons, to try and examine whether she be quick with child or not; and, if they find her quick with child, the execution shall be respited till her delivery. But it is agreed that a woman cannot demand such respite of execution, by reason of her being quick with child, more than once. 2 <i>Haw. c. 51, s. 9.</i>
Whipping of women.	By the 1 Geo. IV. c. 57, it is enacted, that judgment or sentence shall in no case be given, that any female, convicted of any offence, shall be whipped, either publicly or privately; but in cases where whipping of female offenders has formed either part or the whole of the sentence, it shall be lawful for the court, or justice of the peace, to pass sentence of confinement to hard labour in the common gaol or house of correction, for any time not exceeding six months nor less than one month, or of solitary confinement therein for any space not exceeding the space of seven days at any one time, in lieu of the sentence of being publicly or privately whipped. See the act in full, <i>Whipping, ante.</i>
Attending the torn and lect.	Women are not obliged to appear at the torn or lect. 2 <i>Haw. c. 10, s. 11.</i>
Serving the office of constable.	Mr. <i>Hawkins</i> seems to be of opinion that a custom of the inhabitants serving the office of constable by turns is good; and that when it comes to the turn of a woman inhabitant, she must procure one to serve for her. 2 <i>Haw. c. 10, s. 37.</i> And she may be appointed an overseer of the poor. <i>R. v. Stubbs, 2 T. R. 395; 3 T. R. 110, 521; see Vol. IV.</i>

Wood.

[29 Geo. II. c. 36; 31 Geo. II. c. 41; 10 Geo. III. c. 42; 41 Geo. III. c. 109; 50 Geo. III. c. 77; 52 Geo. III. c. 71, c. 72, c. 117; 3 Geo. IV. c. 41, s. 4]

CONCERNING the maliciously destroying wood, fences, &c., see *Malicious Injuries to Property*, Vol. III., p. 734, 736.

Concerning the stealing of wood, fences, &c., see *Larceny*, Vol. III., p. 565, 566.

52 Geo. 3, c. 72. Alice Holt forest.	By the 52 Geo. III. c. 72, the king is allowed to inclose not exceeding 1600 acres of land in the forest of Alice Holt, in the county of Southampton.
Damaging trees in forest.	Sect. 6. "And, for the better preservation of the trees, woods, underwoods, heritors, and standils growing, or which may hereafter be planted and nourished to grow or be growing in or upon any part of the said inclosures so to be made in pursuance of this act, as well before as after the same shall be inclosed, be it further enacted, That all persons whomsoever who shall, from and after the passing of this act, unlawfully cut down, split, bark, peel, damage, deface, destroy, or carry away any timber tree or other tree, woods, or covert, green stick, or any heritor or standil within the said forest as aforesaid, shall be subject and liable to all such pains, penalties, and punishments, as are provided by the laws and statutes of this realm to be given, imposed, or inflicted upon any person or persons committing the like offence or offences in the lands, grounds, woods, or coppices, being inclosed, and the private property of any of his majesty's subjects."
Penalties.	
Breaking down inclosures.	Sect. 7. "That every person who shall wilfully destroy or take away, or shall

break down any fence or inclosure, or any part thereof, made for the protection of any nursery of wood and timber as aforesaid, shall for the first offence forfeit the sum of 10*l.*; and for the second offence the sum of 20*l.*; and for the third offence shall be deemed guilty of felony, and may be transported to any part beyond the seas for the term of seven years, or be subject to such other punishment by fine, imprisonment, or otherwise, as the court before which such person shall be convicted may direct; and such penalties shall and may be recovered, and on non-payment thereof the person who shall forfeit the same may be committed to prison, in the manner and for the same periods as is specified in an act passed in the sixth year of the reign of his present majesty, intituled, 'An Act for the better Preservation of Timber Trees, and of Woods and Underwoods, and for the further Preservation of Roots, Shrubs, and Plants,' in relation to the penalties of 20*l.* and 30*l.* respectively, for wilfully cutting or breaking down any timber under the said act."

And by the 52 Geo. III. c. 71, similar provisions are enacted respecting the forest of Woolmer, in the county of Southampton, where the king is allowed to inclose 2000 acres.

By the 50 Geo. III. c. 77, and 52 Geo. III. c. 117, certain duties of customs are imposed upon wood imported, and regulations enacted relating thereto.

The 52 Geo. III. c. 71, contains provisions respecting the forest of Woolmer, and the timber growing there, and certain inclosures to be there made; and by sect. 7, "every person who shall wilfully destroy or take away, or shall break down, any fence or inclosure, or any part thereof, made for the protection of any nursery of wood and timber as aforesaid, shall for the first offence forfeit the sum of 10*l.*; and for the second offence, the sum of 20*l.*; and for the third offence, shall be accounted guilty of felony, and may be transported to any part beyond the seas for the term of seven years, or be subject to such other punishment, by fine, imprisonment, or otherwise, as the court before which such person shall be convicted may direct; and such penalties shall and may be recovered, and on non-payment thereof, the person who shall forfeit the same may be committed to prison in the manner and for the same periods as are specified in an act passed in the sixth year of the reign of his present majesty, intituled, 'An Act for the better Preservation of Timber Trees, and of Woods and Underwoods, and for the further Preservation of Roots, Shrubs, and Plants,' in relation to the penalties of 20*l.* and 30*l.* respectively for wilfully cutting or breaking down any timber under the said act."

The General Inclosure Act, 41 Geo. III. (United Kingdom) c. 109, s. 28, (Vol. III., p. 307,) imposes a forfeiture not exceeding 5*l.* on any person who shall wilfully and unlawfully break down, destroy, carry away, or damage any fence, stile, post, rail, gate, bridge, or tunnel, put up under the authority and for the purposes of any inclosure act, upon conviction before a justice of the county, &c.

By the 29 Geo. II. c. 36, s. 1, it is enacted, "That it shall and may be lawful to and for his majesty, his heirs and successors, and all other owners of wastes, woods, and pastures, in that part of Great Britain called England, wherein any person or persons, or body or bodies politic or corporate, hath or have right of common or pasture, by and with the assent of the major part in number and value of the owners and occupiers of tenements to which the said right of common of pasture doth belong, and to and for the major part in number and value of the owners and occupiers of such tenements, by and with the assent of the owner or owners of the said wastes, woods, and pastures, and to and for any other person or persons, or body politic or corporate, by and with the assent and grant of the owner or owners of such wastes, woods, and pastures, and the major part in number and value of the owners and occupiers of such tenements, to inclose and keep in severalty, for the growth and preservation of timber or underwood, any part of such wastes, woods, and pastures, for such time, and in such manner, and upon such conditions, as shall be agreed by them respectively."

By the 31 Geo. II. c. 41, this word owners shall extend to tenants for life or and for term of years: provided, that nothing done by such tenants for life or years shall have effect or continuance after determination of such their estate.

By the 29 Geo. II. c. 36, s. 5, all bodies politic or corporate, whether aggre-

WOOD.

Penalty.

8 Geo. 2, c. 48.

52 Geo. 3, c. 71.
Woolmer forest.

50 Geo. 3, c. 77.
52 Geo. 3, c. 117.
Duty.

52 Geo. 3, c. 71.
Penalties for
breaking down
inclosures in the
forest of
Woolmer.

41 Geo. 3, (U. K.)
c. 109, gives a
forfeiture for de-
stroying any
fences, &c. put
up under inclo-
sure acts.

29 Geo. 2, c. 36.
Encouragement
of the plantation
of wood.

31 Geo. 2, c. 41.

29 Geo. 2, c. 36.

WOOD.

gate or sole, feoffees in trust, executors, administrators, guardians, committees, or other trustees whatsoever, and the husbands of females covert, may agree to such inclosure, and such their agreement shall be valid.

Sect. 2. And in case the owner of such wastes, woods, or pastures, and the major part in number and value of the owners and occupiers of such tenements, shall jointly agree to assign their right for the purpose aforesaid to any other person, such owner shall not have an estate in fee-simple therein, or shall be restrained from alienating; the recompense to be paid to such owner shall be either by a grant of a share of the profit from the sale of such timber or under-wood, or by a grant of other lands, or of an annuity of rent-charge issuing out of the ground so inclosed, or out of other lands: such equivalent to be held and enjoyed by the owner of such wastes, woods, and pastures, and such as shall be entitled to the same in reversion, remainder, or succession, in like manner as the estate in such woods, wastes, or pastures is limited to be held and enjoyed.

29 Geo. 2, c. 36.
31 Geo. 2, c. 41.

And by the 29 Geo. II. c. 36, s. 2, and 31 Geo. II. c. 41, where any recompense shall be agreed to be given for such inclosure to or to the benefit of the owners and occupiers of such tenements, it shall be made either by a grant of a share of the profit which shall arise from the sale of such timber or under-wood, or by a grant of other lands; or by some annuity or rent-charge issuing out of the ground so inclosed, or out of other lands; or shall be paid in money, to be placed out at interest on public securities, or laid out in the purchase of lands, or of some annuity or rent-charge issuing out of lands; and the produce thereof, until such purchase shall be made, and also every recompense to be made by virtue of the said act of the 29 Geo. II., shall be applied and given to the persons interested in the right of common, in proportion to their respective interests.

29 Geo. 2, c. 36.
Where it is for
the relief of the
poor.

By the 29 Geo. II. c. 36, s. 2, where the inhabitants of any parish or township shall be willing to acquire such right of inclosure, for the employment and benefit of their poor, they may (by the consent and direction of the major part of the inhabitants, assembled at a vestry or public meeting to be held for that purpose, public notice thereof in the church being first given on three Sundays before) pay the recompense for the same, and the charges of inclosing and preserving such grounds, out of the poor rate; and shall apply the profit from the sale of such timber or underwood towards the relief of the poor. *Note.* Here is no allowance for the charges of planting.

Sect. 3. And the agreement for such inclosure shall be in writing, and signed by the parties, and, within three months after the execution thereof, be enrolled by the clerk of the peace where the greater part of such wastes, woods, or pastures shall lie.

10 Geo. 3, c. 42.

And by the 10 Geo. III. c. 42, further time is given for such enrolment, provided the same shall have been made on or before December 25, 1770. And inclosures made before the passing of this act of 10 Geo. III. c. 42, though not strictly according to the directions of the said former acts, are enacted to be good and valid.

29 Geo. 3, c. 36.

By the 29 Geo. II. c. 36, s. 4, persons aggrieved by such agreement may, within six months after the enrolment, appeal to the sessions, whose determination shall be final. And if no such appeal shall be made, the agreement shall be for ever binding.

Exportation.

By the 3 Geo. IV. c. 41, s. 4, the 1 & 2 P. & M. c. 5, relative to the exportation of wood is repealed.

Woollen Manufacture. (a)

WHEREIN, concerning—

- I. *The Winding of Wool*, p. 1031.
[8 Hen. VI. c. 22; 23 Hen. VIII. c. 17; 6 Geo. IV. c. 105.]
 - II. *The Exportation of Live Sheep and Wool*, p. 1032.
[5 Geo. IV. c. 47; 6 Geo. IV. c. 105, c. 104.]
 - III. *Cards for Manufacturing Wool*, p. 1032.
[26 Geo. III. c. 76; 6 Geo. IV. c. 105, s. 21.]
 - IV. *The deceitful Working of Woollen Cloth*, p. 1032.
[13 Geo. I. c. 23; 17 Geo. II. c. 5; 49 Geo. III. c. 109.]
 - V. *The Fulling of Cloth*, p. 1033.
[4 Edw. IV. c. 1; 5 Geo. IV. c. 41.]
 - VI. *The Searching of Cloth, and therein of the Length, Breadth, and Weight thereof*, p. 1033.
[49 Geo. III. c. 109.]
 - VII. *The Dyeing of Cloth*, p. 1033.
[6 Anne, c. 8; 23 Geo. III. c. 15; 49 Geo. III. c. 109.]
 - VIII. *The Stealing Goods of Cloth*, p. 1034.
[15 Geo. II. c. 27; 7 & 8 Geo. IV. c. 29.]
 - IX. *The Dressing of Cloth*, p. 1036.
[3 Geo. IV. c. 41, s. 4.]
 - X. *Mixed or Medley Broad Cloth in particular; especially in Gloucestershire, Wiltshire, and Somersetshire*, p. 1036.
[49 Geo. III. c. 109.]
 - XI. *The Yorkshire Manufacture in particular*, p. 1036.
[11 Geo. II. c. 28; 5 Geo. III. c. 51; 6 Geo. III. c. 23; 49 Geo. III. c. 109.]
 - XII. *The Burying of Dead in Woollen Cloth*, p. 1041.
[54 Geo. III. c. 108.]
 - XIII. *Against Importation of Woollen Cloth, and Encouragement of the Exportation of Woollen Manufactures*, p. 1041.
[3 Geo. IV. c. 42; 6 Geo. IV. c. 105.]
 - XIV. *Privileges granted to Woolcombers*, p. 1042.
[49 Geo. III. c. 109.]
- [By statute 50 Geo. III. c. 83, the 1 Rich. III. c. 8, 5 Hen. VIII. c. 3, 27 Hen. VIII. c. 13, and the 33 Hen. VIII. c. 19, are repealed.]

I. *The Winding of Wool.*

By the 8 Hen. VI. c. 22, no man shall make any inwindings within the fleece, at the rolling up of his wool; nor put in the same, locks, pelt, wool, tar, ^{8 Hen. 6, c. 22.} Deceitful winding.

(a) As to servants in the woollen manufactures, see *Servants, ante*, p. 376, 382.

THE WORKING
OF CLOTH.

23 Hen. 8, c. 17.

stones, sand, earth, grass, nor any dirt; and, if he do, the party grieved may bring his action at common law of trespass and deceit.

By the 23 Hen. VIII. c. 17, no person shall wind any fleece not sufficiently washed, except in counties where they do not use to wash sheep; nor shall wind with any fleece, clay, lead, stones, sand, tails, deceitful locks, cot, cals, comber, lambs' wool, or any other thing whereby the fleece may be the more weighty, to the deceit and loss of the buyer (except where fleeces are sold by number, and not by weight): on pain that the seller shall forfeit 6d. a fleece, half to the king, and half to him that shall sue.

By the 6 Geo. IV. c. 105, s. 185, the 28 Geo. III. c. 38, is repealed.

II. The Exportation of Live Sheep and Wool.

From December 10, 1824, all acts and parts of acts prohibiting the exportation of wool, &c., repealed, and the duties specified in table (B.) on the exportation of certain skins and wool, &c., shall be paid.

By the 5 Geo. IV. c. 47, s. 2, from December 10, 1824, all acts and parts of acts of the Parliaments of Great Britain and Ireland respectively, and of the Parliament of the United Kingdom of Great Britain and Ireland, whereby the exportation from any part of the United Kingdom, or from the islands of Guernsey, Jersey, Alderney, Sark, or Man, to foreign parts, or the carrying coastwise of sheep or lambs' wool, or any manufacture thereof, or of sheep or lambs alive, or of hare or coney wool, or of hare or coney skins, is prohibited or restrained, or whereby the packing, marking, or moving of wool, or of any manufactures thereof, within any part of the United Kingdom, or of the islands of Guernsey, Jersey, Alderney, Sark, or Man, is in any way regulated, shall be repealed.

By the 6 Geo. IV. c. 105, the 5 Geo. IV. c. 47, is repealed; and by the 6 Geo. IV. c. 104, the duties on wool, hare, and coney skins, and articles manufactured of wool imported or exported, are enumerated in the schedule of the act.

III. Cards for the Manufacturing of Wool.

Laws for manufacturing wool.

By the 6 Geo. IV. c. 105, s. 21, the 13 & 14 Car. II. c. 19, is repealed.

By the 26 Geo. III. c. 76, so much of the 14 Geo. III. c. 71, and 21 Geo. III. c. 37, as prohibited the exportation of wool-cards, or stock-cards not exceeding in value 4s. per pair, and spinners' cards not exceeding 1s. 6d. per pair, used in the woollen manufacture, is repealed.

IV. The deceitful Working of Woollen Cloth.

Collecting or carrying ends of yarn, &c.

By the 49 Geo. III. c. 109, ss. 1, 2, the 43 Eliz. c. 10, 21 Jac. I. c. 18, and 13 Geo. I. c. 23, ss. 3, 4, 6, relating to this head, are repealed.

By the 13 Geo. I. c. 23, s. 8, and the 17 Geo. II. c. 5, s. 4, if any person shall be found collecting, buying, receiving, or carrying or conveying in any bag, or other convenience, any ends of yarn, wefts, thrums, short yarn, or other refuse of cloth, drugget, or other woollen goods, or goods mixed with wool (flocks and pinions only excepted), the constable may by warrant of one justice search such person, bag, or other convenience; and if any the same be found, he shall carry the offender before a justice of the peace, who, on conviction before him, by confession, or oath of one witness, shall be deemed a dangerous and incorrigible rogue, vagrant, or person, and liable to be punished as such person is by 12 Anne, st. 2, c. 23, directed to be punished.

The 5 Geo. IV. c. 83, s. 1, *ante*, Vagrant, p. 1032, repeals the 12 Anne, st. 2, c. 23; and sect. 5 inflicts the punishment.

In *R. v. Terrett*, 2 T. R. 735, it was held, that where proceedings were had before justices, partly under the 13 Geo. I. c. 23, which contains a clause taking away a *certiorari*, and partly under the 17 Geo. II. c. 5, which had no such clause, those proceedings which were had under the former act could not be removed, but that those which were had under the latter act might. It is to be

noticed, this decision took place before the repeal of the 17 Geo. II. c. 5, by the 5 Geo. IV. c. 83, s. 1.

THE DYEING
OF CLOTH.

V. *The Fulling of Cloth.*

By the 4 Edw. IV. c. 1, s. 6, every fuller, in his craft and occupation of fulling, rowing, or tayselling of cloth, shall use taysels, and no cards, deceitfully impairing the said cloth, on pain to yield to the party grieved his double damage; and every justice of the peace, mayor, master, warden, bailiff, portreeve, constable of hundred, and steward of leet, in their respective liberties, may hear and determine the same, and commit the offender to the next gaol till payment. And also any person not grieved may make information to any such justice, mayor, master, warden, bailiff, portreeve, or steward, in which case the offender shall forfeit to the king, or to such person as shall be entitled to fines or amercements within their jurisdiction, 3s. 4d.; and they may make process against the party in like manner as justices of the peace may do for sureties of the peace, without any fee to be taken for the execution of their offices in this behalf.

Taysels to be used,
and not cards.

The 7 Edw. IV. c. 3, enacting that no cloth not fullled shall be exported, on pain of forfeiting the same, half to the king, and half to him that will sue, is repealed by the 3 Geo. IV. c. 41, s. 3; and by the 6 Geo. IV. c. 105, s. 382, the 3 Geo. IV. c. 41, is repealed, except as to its repealing other acts.

VI. *The Searching of Cloth, and herein of the Length, Breadth, and Weight thereof.*

By the 3 & 4 Edw. VI. c. 2, 5 & 6 Edw. VI. c. 5, 4 & 5 P. & M. c. 25, 39 Eliz. c. 20, 43 Eliz. c. 10, 4 Jac. c. 2, and 21 Jac. c. 18, several provisions relating to this branch of the woollen manufacture were enacted; but they were, together with many others relating to the same subject, repealed by the 49 Geo. III. c. 109; which last act also repeals the 3 Jac. I. c. 16, ss. 2, 3, 4.

Searching of
cloth, &c.

For the measuring of cloth, the statutes generally provide that the yard shall consist of a standard yard, and the breadth of a man's thumb besides, or thirty-seven inches in the whole.

Yard and inch.

VII. *The Dyeing of Cloth.*

By the 49 Geo. III. c. 109, the 3 & 4 Edw. VI. c. 2, and the 36 Edw. VI. c. 6, are repealed.

By the 6 Anne, c. 8, for the encouragement of dressing and dyeing of cloth, no person shall export any white woollen broad cloth until he have paid duty of 5s. for every such cloth, on pain of forfeiting the same, or the value thereof, half to the king, and half to him that shall seize, inform, or sue.

Exporting white
woollen cloth.

By the 23 Geo. III. c. 15 (repealing the 13 Geo. I. c. 24), if any person shall dye any woollen goods for mather blacks, not being first dyed throughout with woad and indigo, he shall forfeit for every piece of long Bocking bays, containing seventy yards or upwards, 5*l.*; of Colchester bays or short bays, containing thirty-five yards or upwards, 50*s.*; for every piece of other woollen goods, 6*d.* a-yard.

And if any person shall dye any woollen cloth for woaded black, the same not being woaded throughout, he shall forfeit 2*s.* a-yard.

Sect. 3. And all woollen goods truly mathered black shall be marked with a red rose and a blue rose; and when truly woaded black, shall be marked with a blue rose only; and if any person shall counterfeit or forge, or cause, &c., any of the said marks, or shall dye, stain, imprint, or affix any such mark to or upon any such woollen cloths falsely and deceitfully dyed as or for mathered or woaded blacks, he shall forfeit 4*l.* for every piece of such woollen goods upon which such mark shall be so stained, &c.

THE STEALING
OF CLOTH.Using logwood in
dyeing blue.Searchers ap-
pointed and
sworn.

Sect. 4. If any person shall use any logwood or logwood liquor in dyeing any woollen goods blue, he shall forfeit 20*l.* for each piece.

Sects. 5, 6, 7, 8, and 9, relate to the appointment of searchers in London, and places within ten miles of London. And, by sects. 10, 11, elsewhere the justices in sessions shall appoint searchers, who shall have like powers as searchers within the said limits, who shall take the following oath :

"I do swear that I will faithfully, impartially, and honestly, execute and perform the trust reposed in me as a searcher, by virtue of an act of Parliament made in the twenty-third year of the reign of his majesty King George the Third, for rendering more effectual the provisions contained in an act of the thirteenth year of King George the First, for preventing frauds and abuses in the dyeing trade."

(Which act of 13 Geo. I. is repealed by the same act of the 23 Geo. III.)

Sect. 12. And if any person shall oppose, obstruct, hinder, or prevent any searcher, he shall forfeit 10*l.*

Sect. 5. The persons appointed searchers within the said limits, are to be searchers of all shops, warehouses, workhouses, and tenter-grounds, or drying-places, of all persons using or exercising the trade of dyeing of cloths, bays, or other woollen goods, and also of every person concerned in the dyeing, drying, or packing of any such cloths, &c., and also all public warehouses and other public places, where any cloths, &c., packed up for exportation, shall be deposited; and every such searcher may at all seasonable times, in the day-time, enter into any such shop, &c., and examine all or any woollen goods dyed black or blue, whether packed or unpacked, and also cut and take away a pattern or sample from either end of every such piece of woollen goods, as he shall think proper, for the purpose of trying and proving the same, such searcher taking to his assistance a constable or other peace-officer of the parish or place wherein such shop, &c., shall be; and every such constable or other officer shall aid or assist such searcher in the execution of this act, whenever application shall be made to him for that purpose.

Penalties, how to
be recovered and
applied.

Sect. 14. Prosecutions for offences against this act shall be commenced within forty days. By sect. 13, the penalties and forfeitures, exceeding 5*l.*, shall be recovered in the courts at Westminster; those not exceeding 5*l.* shall be recovered before one justice; which justice shall, on proof of the offence by confession or oath of one witness, levy the penalty by distress and sale; if sufficient distress cannot be found, and the penalties and forfeitures be not immediately paid, the offender shall be committed to the house of correction, there to be kept to hard labour not exceeding three months. The said penalties, if in London, or within ten miles thereof, shall go half to the informer, and half in such manner as the persons attending any meeting to be holden for the appointment of searchers within such limits shall appoint; and the whole of all other penalties and forfeitures recovered by virtue of this act, shall go to the informer and prosecutor.

Appeal.

Sect. 14. If any person is aggrieved by the order of any justice, he may appeal to the next general quarter sessions, giving reasonable and sufficient notice of such appeal to the prosecutor; the determination of the sessions to be final; the justices there to allow reasonable costs to either party, to be levied and paid in such manner as is usual in other cases of appeal from orders of justices to the general quarter sessions.

VIII. The Stealing of Cloth.

As to the stealing of woollen cloth in course of manufacture, see the 7 & 8 Geo. IV. c. 29, s. 16, title *Larceny*, Vol. III., p. 577.

Search for cloth
stolen off tenters,
and wool, &c.,
left to dry.

Because it is often difficult to prove the owner's property in the cloth, therefore, by the 15 Geo. II. c. 27, s. 1, it is enacted, that "in case any cloth or woollen goods, remaining upon the rack or tenters, or any woollen yarn, or wool left out to dry, shall be stolen or taken away in the night-time, it shall and may be lawful to and for any one or more justice or justices of the peace of the same county or place, upon complaint made to him or them, within ten days after such cloth, woollen goods, woollen yarn, or wool, shall have been so

stolen, or taken away by the owner of such cloth, woollen goods, woollen yarn, or wool, by warrant under his or their hands and seals, to authorize and empower any constable, headborough, or other peace-officer, in the day-time, to enter into, and search the houses, outhouses, yards, gardens, or other places belonging to the houses of all and every person and persons whom the owner of such cloth, woollen goods, woollen yarn, or wool, shall, upon his oath, declare to such justice or justices of the peace, he suspects to have stolen, taken away, or received the same; and in case such constable, or other officer, shall find or discover any cloth, woollen goods, or wool, which he shall, from the information of the person making such oath, have reason to suspect to be so stolen, taken away, or received, he shall forthwith apprehend all and every person or persons in whose custody or possession such cloth, woollen goods, or wool, shall be found, and carry him, her, or them, before some justice or justices of the peace of the same county, riding, division, liberty, city, or town corporate; and if the said person or persons so suspected, apprehended, and carried before the said justice or justices, shall not then and there give a satisfactory account, how he, she, or they acquired the property or possession of such cloth, woollen goods, woollen yarn, or wool, or shall not, within some convenient time to be set by the said justice or justices, produce the party or parties of whom he, she, or they received the same, or some other credible witness, to depose, upon oath, such property or right to the possession of the said cloth, woollen goods, woollen yarn, or wool (which oath the said justice or justices is and are hereby empowered to administer), that the said person or persons so suspected, and not giving such satisfactory account, nor producing any such witness upon oath to testify as aforesaid, shall be deemed and adjudged as convicted of the said offence of stealing or taking away the said cloth, woollen goods, woollen yarn, or wool, and shall, for the first offence, forfeit and pay to the owner of such cloth, woollen goods, woollen yarn, or wool, treble the value thereof; and in default of payment thereof, in the time appointed by such justice or justices for the payment thereof, such justice or justices of the peace shall issue forth his or their warrant to levy the same by distress and sale of the offender's goods, returning the overplus, if any be; and, in default of such distress, shall commit the offender or offenders to the common gaol of the county, city, or place where the said offender or offenders shall be apprehended, there to remain for the space of three months, without bail or mainprize, or until he, she, or they pay the same; and if such person or persons shall again commit the said offence, and be thereof convicted as before, then they, and every of them, so offending the second time, and being thereof so convicted, shall, over and above the forfeiture of treble the value of the cloth, woollen goods, woollen yarn, or wool, so found to be recovered and levied as aforesaid, be committed to the common gaol as aforesaid, there to remain for the space of six months, without bail or mainprize; and if such person or persons shall again commit the said offence, and be thereof convicted as before, the justice or justices of the peace before whom such person or persons shall be so convicted as aforesaid, shall forthwith issue his or their warrant to commit the said offender or offenders to the common gaol as aforesaid, there to remain till the next assizes, or great session, where the said offender or offenders shall be tried for the said offence; and in case such offender or offenders shall not, by producing the party or parties of whom he, she, or they acquired the property or possession of such cloth, woollen goods, woollen yarn, or wool, or otherwise prove to the satisfaction of the jury, that he, she, or they lawfully obtained the property or possession of the same, he, she, or they shall be adjudged to be guilty of felony, and suffer transportation for the space of seven years, and shall be liable to the same punishment, and to the like methods of prosecution, trial, and conviction, for returning from such transportation, as other felonous transported are liable unto by virtue of the laws now in force."

Sect. 2. "Provided, that if any person or persons so suspected and apprehended as aforesaid, shall find him, her, or themselves aggrieved by any judgment or determination, which shall be given or made by any justice or justices of the peace, by virtue of this act, it shall and may be lawful to and for such person or persons so aggrieved (unless he, she, or they have twice before been

**THE STEALING
OF CLOTH.**

Woollen goods found, to be accounted for before a justice.

Offender to forfeit treble value.

Penalty to be levied by distress and sale.

Second offence six months' imprisonment.

Transportation for seven years for the third offence.

Appeal to the quarter sessions.

**THE YORK-
SHIRE MANU-
FACTURE IN
PARTICULAR.**

convicted of the same offence), to appeal unto the justices of the peace in their general quarter sessions, which shall happen to be held next after such judgment or determination given or made, who are hereby authorized and empowered to give such relief, and make such order therein, as to them shall seem meet; and such judgment, order, or determination, as shall be by them made upon the said appeal, shall be final, to all intents and purposes whatsoever."

IX. The Dressing of Cloth.

Exportation.

The 3 Hen. VII. c. 11, enacting, that no woollen cloth shall be exported till it be barbed, rowed, and shorn, on pain of forfeiting the same, half to the king, and half to him that will sue, is repealed by the 3 Geo. IV. c. 41, s. 4.

X. Mixed or Medley Broad Cloth in particular; especially in Gloucestershire, Wiltshire, and Somersetshire.

The 49 Geo. III. c. 109, repeals the 13 Rich. II. st. 1, c. 11; 5 & 6 Edw. VI. c. 6; 2 & 3 P. & M. c. 11 & 12; 4 & 5 P. & M. c. 5; 43 Eliz. c. 10; 4 Jac. I. c. 2; 21 Jac. I. c. 18; 10 Anne, c. 16; 1 Geo. I. st. 2, c. 15; 13 Geo. I. c. 23, s. 10, 14; and 5 Geo. III. c. 51, s. 23; and also the 5 Eliz. c. 4, s. 31, (a) so far as relates to apprentices.

XI. The Yorkshire Manufacture in particular.

**Narrow woollen
cloth.**

By the 11 Geo. II. c. 28, s. 3, 4, the justices at the Easter sessions yearly, for the West Riding of the county of York, shall appoint searchers, such as have served apprenticeships to the trade of making narrow cloth, or have exercised such trade three years, and appoint them salaries; who shall be sworn before a justice well and truly to execute the office of searching such narrow woollen cloth. And in case of the death or sickness, or other disability of a searcher, one justice living near may appoint another till the next sessions, to be there confirmed, or another appointed.

Sect. 13. Which said cloth may be made of what length and breadth the maker shall think fit.

Sects. 1 and 2. He shall weave or set in the head of every piece of narrow woollen cloth the first letters of his name, on pain, on conviction in one month, of forfeiting 20s.

Sect. 1. The same shall be measured when wet at the mill, both by the millman and the searcher, who shall measure it down the middle for the length, and within the lists for the breadth.

The millman shall rivet at one end a seal of lead, to be furnished by the clothier, and shall stamp his own name thereon at length, and the length and breadth in figures: the searcher shall also affix a seal of lead at the other end with his name, with the length and breadth in like manner.

Sects. 1 and 2. And they both shall keep books, wherein they shall enter the day and year when milled, the name and place of abode of the owner, and the length and breadth; and shall suffer the buyer to inspect the same.

Sects. 2 and 11. The miller or searcher offending herein, shall, on conviction in eight days after the cloth is removed from the mill, forfeit 5*l*.

Sect. 7. If any person shall take off, alter, obliterate, counterfeit, or cut off the seal, or figures, or letters, before it be sold or cut by the retailer, he shall (on conviction in one month) forfeit 40*s*.

Sects. 8 and 9. A sum not exceeding 3*d*. for every such narrow cloth (to be ascertained by the justices at their Easter sessions) shall be paid by the owner before it is carried to the mill, to such persons as the justices at Easter sessions

(a) As to apprentices to woollen manufacturers, see *post*, p. 1042.

shall appoint, to pay the searchers' salaries, and other expenses of the act; and the millman, or owner or occupier of the fulling mill, or the searcher, or such other person so appointed, may detain the cloth at the mill till paid; and if not paid in eight days after demand, the person appointed to receive the money may sell the same and detain the money, rendering the overplus on demand.

Sects. 5 and 11. And the maker or owner shall measure the cloth when brought from the mill before it is set on the tenter; and if it is less than the stamp, or by lying wet in an improper season for drying is become less, he shall carry it to the millman and searcher to be re-measured and re-stamped, on pain of 5s., on conviction in one month after the offence.

Sect. 6. The maker or owner may stretch the same one inch in a yard in length, and two inches in every three-quarters in breadth, and so in proportion; but if any maker, buyer, owner, dresser, or dealer in such cloth, stretch it further, he shall forfeit, for the first half-yard in length, or first inch in breadth so over-stretched, 10s.; and for every other half-yard in length, or half-inch in breadth, 20s.

Sect. 10. The conviction to be before one justice, not being a dealer in cloth, or buying or selling the same, on oath of one witness, reasonable notice being first given to the person accused. Conviction.

Sect. 10. The forfeitures (if not paid in ten days after conviction, notice thereof being given at the offender's last place of abode or dwelling-house, and if he shall not appeal) to be levied by the constable where the offender inhabits, by warrant of a justice, not being a dealer in woollen cloth, by distress, rendering the overplus on demand, charges of distress and sale being first deducted; to be distributed (after deducting the charges of conviction), half to the informer and half to the treasurer, for the expenses of carrying the act into execution; for want of distress, to be committed to the house of correction to hard labour for one month. Distress.

Sect. 12. Persons aggrieved by any order or warrant, upon any conviction by any justice or justices, may appeal to the next quarter sessions to be held after fourteen days from the conviction, giving ten days' notice to the informer. And the justices there may, on confirming or disannulling the orders or proceedings of the justice or justices, award costs. Appeal.

By the 5 Geo. III. c. 51 (which extends to all woollen cloth made in the said West Riding, except such narrows as are provided for by the aforesaid act of 11 Geo. II. c. 28), and by the 6 Geo. III. c. 23 (which extends to all such woollen cloths, except as before excepted, and except such woollen goods as are made for blanketing, and striped duffeled blankets), it is enacted as follows:—

By the 5 Geo. III. c. 51, s. 2, 6 Geo. III. c. 23, s. 1, 18, the justices for the said West Riding (not being dealers in woollen cloth, nor occupiers of any fulling-mill), shall, at the Bradford Midsummer Sessions, yearly appoint so many men as they shall think proper (having been brought up in the manufacture of woollen cloth in the said riding, and under sixty years of age), to be searchers and measurers of cloth at the fulling-mills, and allow them salaries. Searchers.

And by the 5 Geo. III. c. 51, s. 7, they shall also appoint inspectors (not exceeding twelve in number) of broad woollen cloths, and of the workshops, tenter-grounds, and warehouses; with salaries not less than 20l. a-year. Inspectors.

And also supervisors (not exceeding four in number) of the conduct and behaviour both of the searchers and inspectors; with salaries, not less than 40l. a-year, and 10l. more, if their duty require them to keep a horse. Supervisors.

All of them, before they enter upon their office, to be sworn before a justice, that they will well and truly, to the best of their skill and power, execute such office.

And, by the 6 Geo. III. c. 23, s. 9, shall also give bond to the treasurer, with a surety, in the penalty of 50l., duly to account for and pay the money by them respectively to be received in the execution of their office.

Sect. 17. Provided, that if any of the officers so appointed shall keep a public-house for selling ale, beer, or other liquors, or be concerned in the making, buying, or selling any wool, woollen manufactures, or goods, commonly made

THE YORK-
SHIRE MANU-
FACTURE IN
PARTICULAR.

use of in dyeing; or be guilty of any misbehaviour or neglect of duty in his office; and shall be convicted thereof by the oath of one witness before two justices; it shall be lawful for the justices, at the next sessions after such conviction, on producing the same, or due proof thereof, to discharge such officer, and appoint another in his room.

And by the 5 Geo. III. c. 51, s. 10, if any of the said officers shall die, or be displaced, or become incapable, by sickness or other accident, within the year, one justice near the place may appoint another till next Easter sessions, to be there confirmed, or another put in his place, or during such sickness or incapacity.

Sect. 18. The maker of cloth shall weave or sew into the head of every piece by him made, his name and place of abode, either in distinct letters or words, or in some common or known abbreviations. 6 Geo. III. c. 23, s. 13.

Sect. 19. At the fulling-mill for every yard of cloth exceeding fifty-eight yards, whether in one cloth or two short cloths or ends, which shall be milled in one stock at one time, the owner shall pay to the miller a halfpenny for every yard above fifty-eight, over and above the usual price for milling a stock of fifty-eight yards.

Disputes.

Sect. 20. And all disputes between clothiers and millers, relating to the wages for fulling, milling, or scouring, shall, if such miller desire it, and the matter in dispute do not exceed 40s., be determined by one justice (not being a trader or dealer in woollen manufacture, farmer, or occupier of a fulling-mill), who may, on complaint of the parties, adjudge damages, and give costs not exceeding 10s., and levy the same by distress if not paid in ten days.

Sect. 3. The searchers shall, at the fulling-mills, measure the cloths and ends, or half-ends there milled, within six, and not sooner than four hours after the same shall have been streamed or washed in the goit or mill-stream; and if the same shall not be streamed or washed, then within four hours after they come out of the stock.

Sect. 3. Such searcher shall, on one end of every such cloth, before it be carried from the mill, affix and rivet a seal of lead to be furnished by the maker, and stamp in words and figures upon every such rivet, his name, and the name of the mill where he is stationed; and upon the residue of the seal the length and breadth of such cloth, together with the number of each of such cloths milled at such mill successively, beginning at number 1, at the 25th of March yearly, and so continuing progressively to the 25th of March next following. 6 Geo. III. c. 23, s. 2.

Sect. 3. And shall enter in a book, to be provided by the treasurer of the said riding, the name and place of abode of the maker, the colour or sort of the cloth, and the length, breadth, and number on the seal.

Sect. 3. And shall give, once a month, to the supervisor within the district, an account of all the cloths milled, measured, and stamped at such mill.

Sect. 3. The owner shall pay to the searcher, for the seal of every whole cloth thirty-five yards long or upwards, 6d.; for every end or half-cloth less than thirty-five yards, and more than thirty, 4d.; less than thirty yards, 3d. Which sum shall be accounted for by such searcher to the said treasurer.

Sect. 4. Searcher making default in measuring and stamping, or giving in a false or fraudulent account, shall, for the first offence, forfeit 20s.; for the second offence he shall forfeit his office.

Sect. 5. If the maker shall take away his cloth before it is measured and stamped within the times before mentioned; or before the money be paid for stamping the same; or shall take away his cloth after nine o'clock in the evening, or before five in the morning, unless the same be measured and stamped; he shall forfeit 20s.

And by the 6 Geo. III. c. 23, s. 7, 8, if any inspector hath reason to suspect that any cloth shall be in the possession of any merchant, buyer, dresser, or cloth-worker, which hath not been truly stamped at the fulling-mill, he may give notice thereof to such person; describing the cloth by the maker's name or seal; which said person shall give two hours' notice to the said inspector of the time when he intends to put the said cloth into water, in order that he may attend the wetting and measuring thereof; and if such person shall put the same

into water without such notice to the said inspector, he shall forfeit 20s. And if any supervisor or inspector shall wilfully refuse or neglect to attend for measuring and stamping any cloth or end of cloth as aforesaid for two hours after notice given to him, he shall forfeit 20s.

By the 5 Geo. III. c. 51, s. 6, the maker of cloth called broad cloth, shall, after it is brought from the mill, and before it is put upon the tenter, measure the same, and affix and rivet a seal of lead upon the other end, and stamp thereon the length and breadth.

Sec. 22. The owner of every tenter shall measure the said tenter, and mark in figures the true length of yards (at thirty-seven inches to the yard), beginning at number one, and marking every yard distinctly on the top bar on the fore-side; on pain of 5*l*.

By the 6 Geo. III. c. 23, s. 15, if any person shall stretch any cloth more than one yard (consisting of thirty-seven inches) in every twenty in the length, or more than one inch in twelve in the breadth, beyond the mark stamped by the searcher, inspector, or supervisor, who last measured the same, he shall forfeit for the first half-yard overstretched in length, 5*s*.; and for every quarter of a yard above such half-yard, 10*s*.; and for the first inch overstretched in breadth, 5*s*.; and for every inch above the first, 10*s*.

Sec. 11. If any person shall willingly take off, alter, or counterfeit, deface, obliterate, or cut out any seal affixed on the said cloth as aforesaid, or the figures, letters, and words thereon stamped, or therein woven or sewed, before the cloth shall be put in papers for the press, or into the frizing-mill; or if any inspector or supervisor shall find any cloth without such seal as aforesaid, or find such seal defaced, counterfeited, or altered (unless accidentally lost, or maliciously taken off); or shall find any cloth which shall appear by the mark, stamp, or seal affixed thereon to be overstretched, or the loom-mark specifying the name and place of abode of the maker to be cut out or altered; every person so offending, or the merchant, dresser, clothier, or owner, in whose custody such cloth shall be found, shall forfeit not exceeding 40*s*., nor less than 20*s*. Taking off seals, &c.
Penalty.

[By the 49 Geo. III. c. 109, s. 2, the 5 Geo. III. c. 51, s. 23, is repealed.]

Sec. 16. It shall be lawful for any person, in the striking or plaining of cloth upon the tenters only, to use cards of wire, called fine hatters' cards, for the better laying the wool, and manufacturing the cloth, without being subject to the penalty.

By the 5 Geo. III. c. 51, s. 11, the inspector or supervisor may, in the day-time, enter into any shops, outhouses, tenter-grounds, or warehouses, to search; and any person resisting or refusing to permit the same shall forfeit 10*l*.

Sec. 8. The supervisors shall be daily employed in visiting the mills, tenters, tenter-grounds, workshops, and places within their districts, and every such supervisor shall measure and stamp with a seal of lead having his name impressed on so many of the said cloths as he conveniently can; and keep an account thereof; and transmit the same, together with the accounts received by him from the searchers, to the justices at every quarter-sessions. And if any inspector or supervisor be negligent in his duty, or shall transmit a false account of the cloths measured, he shall forfeit and lose his office.

Sec. 9. And if the inspector or supervisor shall find any cloth, or end, or half-cloth, falsely stamped by the searcher, above one inch in breadth in more than one-third part of the length thereof, or above half-a-yard in length, he shall within seven days give information thereof to a justice not being a dealer, &c.; and such searcher shall, on conviction before such justice, forfeit 10*s*. See the 6 Geo. III. c. 23, s. 3.

The 6 Geo. III. c. 23, s. 10, provides, that it shall not be lawful for any inspector or supervisor to enter into any house, warehouse, or outhouse, of any merchant, dresser, or other dealer in cloth (unless such places shall be made use of for dressing, tenting, or keeping of wet or undressed cloth), under pretence of searching for, or examining any woollen cloth, or to search or examine any cloth, after the same shall be put up in papers for pressing, or sent to be frized, or otherwise hath been fully manufactured, or fitted for exportation or home consumption.

THE YORK-
SHIRE MANU-
FACTURE IN
PARTICULAR.

Merchants sus-
pecting cloth
may wet them.

By the 5 Geo. III. c. 51, s. 18, if the maker shall expose any cloth to sale without such mark as aforesaid, or without seals as before directed, he shall forfeit 20s. for every such piece.

By the 6 Geo. III. c. 23, s. 4, the buyer, if he suspect any fraud, may, within forty days after the sale and delivery of such cloth (and before the same shall have been raised, rowed, dressed, dyed, or put in water), put the same into cold water not exceeding four hours, and after the same shall be fully wet, shall hang the same across a plain rail or horse-tree, not less than two hours, nor more than four; and then immediately cause the same to be measured by some sworn searcher, measurer, inspector, or supervisor; and if there shall be found a less quantity in length or breadth in more than one-third part of the length thereof than is mentioned on any of the seals affixed by the said searcher, inspector, or supervisor who before measured the same, in such case the searcher, &c., who last measured the cloth, shall, within three days after such last admeasurement, give information thereof to a justice (not being a dealer, &c.), that the searcher, &c., who before measured and stamped the cloth, did wilfully and knowingly affix such false and fraudulent seals to the said cloth; and the searcher, or supervisor, who affixed such false seal, being convicted thereof before such justice, on the oath of such searcher, inspector, or supervisor who last measured the said cloth, or of any other credible witness, shall forfeit, for the first inch in breadth, or half-yard in length, that such cloth or end of cloth shall fall short, 5s.; and for every other inch in breadth, or half-yard in length, the further sum of 10s. And if such searcher, inspector, or supervisor, who last measured the cloth, shall not in three days give information as aforesaid, he shall, on conviction before such justice, forfeit 40s., and his office, and be disabled for ever from holding any office under this act.

Penalties.

Where false
seals found, in-
spector, &c., to
fix new seals,
&c.

Sect. 5. Where such false seal shall be found, the searcher, inspector, or supervisor who last measured the same, shall affix and rivet a new seal, with his name on the rivet, adding the word inspector or supervisor; and, on the seal, the true length (accounting thirty-seven inches to the yard in length), and the breadth between the lists, in inches. And this shall be the rule in payment, except that (in order to discourage such fraud) the buyer may retain out of the price double the value of so much as was overstamped; unless the maker shall, within three days after notice of such deficiency, take the cloth again, and repay the purchase-money, together with reasonable expenses.

Inspector, &c.,
guilty of stamping
falsely.

Sect. 6. If the seller or buyer shall suspect that this last admeasurement is false, he may in seven days give information thereof to a justice (not being a dealer in woollen cloth); and if such searcher, inspector, or supervisor, who last measured the same, shall be convicted of having so wilfully and fraudulently offended, by the oath of one witness before such justice, he shall, for the first inch in breadth or half-yard in length falsely measured as aforesaid, forfeit 20s.; and if such cloth or end of cloth shall exceed or fall short more than two inches in breadth or one yard in length of the measure so stamped by him, he shall forfeit his office, and be discharged therefrom by the justice, and for ever disabled from holding any office under this act.

Persons charged
with offence, may
examine cloth in
merchants' hands.

Sect. 12. Any person against whom such information shall be made by any merchant, buyer, seller, owner, or dresser of cloth, for false sealing or stamping, may, within two days after notice given to him of such information, go to the house of such merchant, owner, or dresser, and request to see the cloth, and examine whether the charge against him be just, and whether any fraud hath been committed by such merchant, and owner, or dresser: and if any merchant, dresser, or buyer, or owner, shall refuse to permit him to see or examine such cloth (unless the same shall before that time be put in papers for dressing, or sent to be frized), the prosecution shall cease; and if such merchant or buyer shall refuse, he shall lose all benefit of deduction out of the price as aforesaid.

And by the 5 Geo. III. c. 51, s. 16, the treasurer may deduct the sums forfeited by the searchers, inspectors, and supervisors, out of their salaries.

Penalties, how to
be levied and ap-
plied.

By the 6 Geo. III. c. 23, s. 19, informations of offences (not otherwise directed) shall be made (on oath, 5 Geo. III. c. 51) within ten days after the offence shall be discovered; the same to be heard and determined, on the

oath of one witness, before one justice (not being a dealer in woollen cloth, nor occupier of a fulling-mill); notice being first given of the charge to the person charged; and the penalties, after deducting charges of the conviction, to be distributed, half to the informer, and half to the treasurer of the said West Riding; the part belonging to the treasurer shall be received by the justice, and by him paid to an inspector or supervisor of broad woollen cloth; and the said justice shall, within three months, send an account thereof to the said treasurer.

Sect. 20. If any offender shall, for ten days after conviction, and notice thereof given to him at his dwelling-house or last place of abode, refuse or neglect to pay any forfeiture by him incurred by reason of this or the said recited act, or shall not give notice of appeal; then, and not before, the said justice, or any other such justice (on certificate of the conviction sent to him) shall issue his warrant of distress to the constable of the town or place, or bailiff of the liberty, where the offender dwells, requiring him to levy the same by distress and sale, rendering the overplus, if any, and also after paying the charges of such distress and sale, and where no sufficient distress can be had, the said justice shall commit him to the house of correction for any time not exceeding three calendar months.

Sect. 21. Persons aggrieved by any order, warrant, or determination of such justice, may appeal to the next sessions, which shall not be held within fourteen days after the cause of appeal shall arise, giving ten days' notice to the party: and the sessions may, if they confirm or disannul the order, &c., allow costs to either party, to be levied and paid as usual in cases of appeal from any order of justices to the sessions.

Sect. 22. And the justices, inspectors, and supervisors, shall return to the sessions from time to time an account in writing of all convictions that have happened within their knowledge, and of the penalties levied and made payable to the treasurer: and the inspectors and supervisors shall pay to the treasurer, within three months after receipt thereof, all sums by them received on account of such convictions. And every person neglecting or refusing to transmit such account within twenty days next after any such sessions, or to pay such sums within three calendar months after receipt thereof, shall, on conviction on the oath of one witness before two such justices, forfeit 10*l.*, to be recovered in same manner as other penalties.

Convictions to be
returned to the
sessions.

Sect. 24. The money in the treasurer's hands, received on account of the duties and forfeitures, shall, after paying the expenses of the acts, be applied for payment of the salaries of the searchers or measurers, inspectors or supervisors, in such manner and proportion as the said justices at their Midsummer sessions yearly shall appoint.

Money in the
treasurer's hands.

Sect. 25. The justices, after payment of the charges of the acts, at the said Midsummer sessions yearly, may make order for increasing or diminishing the rates to be paid for measuring, stamping, and sealing, so as never to exceed the rates above specified.

Sessions to settle
rates.

XII. Burying of the Dead in Woollen Cloth.

The 54 Geo. III. c. 108, repeals the 30 Car. II. st. 1, c. 3, intituled, "An Act for Burying in Woollen," and the 32 Car. II. c. 1, intituled, "An additional Act for Burying in Woollen."

XIII. Importation of Woollen Cloth, and Encouragement of the Exportation of Woollen Manufacture.

By the 3 Geo. IV. c. 41, s. 3, the 11 Edw. III. c. 3, and 4 Edw. IV. c. 1, Importation.
7, prohibiting the importation of foreign woollen, are repealed, and by the
Geo. IV. c. 105, s. 382, the 3 Geo. IV. c. 41, is repealed.

By the 11 & 12 Wil. III. c. 22, woollen manufactures shall be exported Exportation.
ustom free.

XIV. Privileges granted to Woolcombers.

40 Geo. 3, c. 100.
May set up trades.

Not removable
without chargeable.

May be sum-
moned to make
oath of their
settlement.

By the 49 Geo. III. c. 109, s. 5, every person who shall have served an apprenticeship to any branch of the woollen manufacture, or is by law entitled to exercise the same, and also his wife and children, may set up and exercise such trade, or any other trade or business which they are apt and able for, in any town or place, without suit or molestation by reason of using such trade; and shall not, during the time they exercise such trade, be removable to their place of settlement, by virtue of any law now in being, relative to settlements, until they become actually chargeable. And if any such, or his wife or child, shall be prosecuted for exercising any such trade as aforesaid, on his making it appear that he has served a legal apprenticeship to the said trade, or is the wife or child of any person who has served such apprenticeship, he shall, upon the general issue pleaded, be found not guilty, and shall have double costs.

By sects. 6 & 7, two justices, where any such person or his wife and family shall exercise such trade, may summon every such person before them, and examine him on oath concerning the place of his last legal settlement, who shall obey such summons, and make oath accordingly; and such justices shall give an attested copy of such affidavit, so made before them, to the person making the same, in order that he may produce it when required, which attested copy shall be admitted as evidence as to such settlement before the justices at any sessions; and if such person, or his wife or child, shall again be summoned to make oath as aforesaid, then, on producing such attested copy, he shall not be obliged to take any other or further oath, but shall leave a copy of such attested copy, if required.

Sect. 8. Provided, that this act shall not prejudice the Universities.

And by sect. 9, not to extend to the city of London.

And by sect. 3, this act, which repeals so much of the 5 Eliz. c. 4, as relates to apprentices to the woollen manufactures, shall not annul any contract of apprenticeship whereby any person shall have bound or shall bind himself as an apprentice in any of the occupations thereof, for any period allowed by law; provided always, that such apprenticeship shall not be required as a previous qualification for exercising any branch of the woollen manufacture, either as a master or a journeyman.

N.B. By sect. 4 of this act, it is enacted, that nothing herein shall revive any act repealed by any act or part of any act repealed hereby.

Wreck. (a)

[3 Edw. I. c. 4; 17 Edw. II. st. 1, c. 11; 12 Anne, st. 2, c. 18; 3 Geo. I. c. 13; 2 Geo. II. c. 19; 48 Geo. III. c. 130; 49 Geo. III. c. 122; 53 Geo. III. c. 87; 1 & 2 Geo. IV. c. 7; 7 & 8 Geo. IV. c. 29, s. 18, 19, 20; 9 Geo. IV. c. 31, s. 24.]

Wreck, what.

WRECK of the sea, in legal understanding, is applied to such goods as after shipwreck at sea are by the sea cast upon the land; and therefore the jurisdiction thereof pertaineth not to the lord admiral, but to the common law. 2 Inst. 167.

Jetsam, flotsam,
and ligan.

None of those goods which are called *jetsam* (from being cast into the sea while the ship is in danger, and which there sink and remain under water), or those called *flotsam* (from floating on the surface of the water), or those called *ligan* (which lie in the bottom of the sea, but tied to a cork or buoy, in order to be found again), are to be esteemed wreck, so long as they remain in or upon the sea, and are not cast upon the land by the sea; but if any of them are cast upon the land by the sea, they are wreck. 1 Bla. Com. 292.

(a) As to the burial of dead bodies cast on shore, see *Bodies*, Vol. I.

Also, by the 3 Edw. I. c. 4, where a man, a dog, or a cat, escape quick out of the ship, the ship, or anything therein, shall not be adjudged a wreck. Living creature escaping.

A man, a dog, or a cat—Which statute being but declaratory of the common law, these three instances are only put for examples; for, besides these two kinds of beasts, all other beasts, fowls, and other living things are understood, whereby the property of the goods may be known. 2 Inst. 167.

And it is now holden, that not only if any live thing escape, but if proof can be made of the property of any of the goods or lading which came on shore, they shall not be forfeited as wreck. 1 Bla. Com. 290. As in the case of *Hamilton v. Davis*, 5 Burr. 2732. The ship was lost. The goods cast on shore were sufficiently marked, so as that the owner might be known. But the lord of the manor refused to deliver them up, insisting that they were forfeited as wreck, because no living creature had come alive from the ship to the shore. By Lord Mansfield, C. J.—“No case hath been produced in the argument of this cause, to prove that the goods were forfeited, because no dog, or cat, or other animal came alive to shore. I will therefore presume, that there never was any such determination; and that no case could have been determined, so contrary to the principles of law, justice, and humanity. The very idea of it is shocking. And there is no ground for such a forfeiture, upon the distinction that hath been so much urged, between a man or other animal coming to shore alive or not alive. The coming to shore of a dog or a cat alive, can be no better proof, than if they should come ashore dead. The escaping alive makes no sort of difference. If the owner of the animal were known, the presumption of the goods belonging to the same person would be equally strong, whether the animal were living or not.” And the court were clear and unanimous that the owner was entitled to his goods again, on his paying or tendering a reasonable salvage. Goods cast on shore.

By the 17 Edw. II. st. 1, c. 11, the king shall have wreck of the sea throughout the realm. To whom the wreck belongeth.

The cause whereof originally wreck was given to the crown, stood upon two main maxims of the common law.

1st. That the property of all goods whatsoever must be in some person. 2ndly. That such goods as no subject can claim any property in, do belong to the king by his prerogative. 2 Inst. 167.

The taking of goods whereof no one had a property at the time is not felony; and, therefore, he who takes away a wreck before it is seized by the person who has a right thereto, is not guilty of felony, and shall only be punished by fine or the like. 1 Haw. c. 33, s. 24. That is to say, he is not guilty of felony by the common law; but it is otherwise by the statutes following. Seizing wreck not felony at common law.

To preserve ships stranded or in distress from being plundered by the country people, it is enacted, by the 12 Anne, st. 2, c. 18, and the 26 Geo. II. c. 19, as follows (which act of the 12 Anne is required to be read in the church four times a year, in all sea-port towns, and on the coast): Assisting ships in distress.

By the 12 Anne, st. 2, c. 18, s. 1, it is enacted, “that the sheriffs, justices of the peace of every county, or county of a city or town, and also all mayors, bailiffs, and other head officers of corporations and port-towns near adjoining to the sea, and all constables, headboroughs, tithing-men, and officers of the customs in all and every such places, shall, upon application made to them, or any of them, by or on the behalf of any commander or chief officer of any ship or vessel of any of her majesty’s subjects, or others, being in danger of being stranded or run on shore, or being stranded or run on shore, are hereby empowered and required to command the constables of the several ports within her majesty’s dominions, nearest to the sea-coasts where any such ship or vessel shall be in danger, as aforesaid, to summon and call together as many men as shall be thought necessary to the assistance and for the preservation of such ship or vessel so in distress, as aforesaid, and their cargoes; and that if there shall be any ship or vessel, either man of war or merchants’ ship, belonging to her majesty, or any of her subjects, riding at anchor near the place where such ship or vessel is in distress or danger, as aforesaid, the officers of the customs Sheriffs, mayors, &c. and custom-house officers, to assist ships in distress.

All ships to assist,

12 Anne, c. 18.

on forfeiture of 100*l*.

Notice of ship stranded.

Justices, &c. to attend.

Salvage.

Allowance for attendance.

Persons entering ship without leave,

or hindering the saving the ship, to make double satisfaction.

Masters may repel pressers into the ship.

and constables above-mentioned, or any of them, are hereby empowered and required to demand of the superior officers of such ship or vessel so riding at anchor, as aforesaid, assistance by their boats, and such hands as they can conveniently spare, for the said service and preservation of the said ship or vessel so in distress, as aforesaid; and that, in case such superior officer of such ship or vessel riding at anchor, as aforesaid, shall refuse or neglect to give such assistance, he shall forfeit for the same the sum of 100*l*., to be recovered by the superior officer of the said ship or vessel so in distress, as aforesaid, together with their costs of suit, in any of her majesty's courts of record, by action, debt, bill, plaint, or information, wherein no essoin, wager of law, or protection, shall be allowed."

By the 26 Geo. II. c. 19, s. 6, it is enacted, "that for the better ascertaining the salvage to be paid in pursuance of this present act, and the act before mentioned, and for the more effectual putting the same acts in execution, the justice of the peace, mayor, bailiff, collector of the customs, or chief constable, who shall be nearest to the place where any ship, goods, or effects shall be stranded or cast away, shall forthwith give public notice for a meeting, to be held as soon as possible, of the sheriff or his deputy, the justices of the peace, mayors, or other chief magistrates of towns corporate, coroners, and commissioners of the land-tax, or any five or more of them, who are hereby required and empowered to give aid in the execution of this and the said former act, and to employ proper persons for the saving of ships in distress, and such ships, vessels, and effects, as shall be stranded or cast away; and also to examine persons, upon oath, touching or concerning the same, or the salvage thereof, and to adjust the *quantum* of such salvage, and distribute the same among the persons concerned in such salvage, in case of disagreement among the parties, or the said persons; and that every such sheriff, justice of the peace, mayor, chief magistrate, coroner, lord of a manor, under-sheriff, or commissioner of the land-tax, attending and acting at such meeting, shall be paid 4*s*. a-day for his expenses in such attendance, out of the goods and effects saved by their care or direction."

Section 9. And also the deputy-sheriff and the officers of excise shall be proper officers to put these acts in execution.

And by sect. 10, within the cinque-ports, the lord warden of the cinque-ports, the lieutenant of Dover Castle, the deputy-warden of the cinque-ports, the judge official, and commissary of the court of admiralty of the cinque-ports, shall put the same in execution there.

Section 12. "That it shall be lawful for any one or more of his majesty's justices of the peace, in case of need, and in the absence of the high sheriff, to take sufficient power of the county, to repress all unjust violence, and duly to enforce the execution of this act."

By the 12 Anne, st 2, c. 18, s. 3, it is enacted, "that if any person or persons whatsoever, besides those empowered by the said officer of the customs, or his deputy, and the constables, as aforesaid, shall enter, or endeavour to enter, on board any such ship or vessel so in distress, as aforesaid, without the leave or consent of the commander, or other superior officer of the said ship, or of the said officer of the customs, or his deputy, or of the said constable, or some or one of them employed for the service and preservation of the said ship or vessel, as aforesaid; or in case any person shall molest him, them, or any of them, in the saving of the said ship, vessel, or goods, or shall endeavour to impede or hinder the saving of any such ship, vessel, or goods, or when any such goods are saved, shall take out or deface the marks of any such goods, before the same shall be taken down in a book or books for that purpose, provided by the commander or ruling officer, and the first officer of the customs, as aforesaid, such person or persons shall, within the space of twenty days, make double satisfaction to the party grieved, at the discretion of the two next justices of the peace, or in default thereof, shall, by such justices of peace, be sent to the next house of correction, where he shall continue and be employed in hard labour by the space of twelve months then next ensuing; and that it shall be lawful for any commander or superior officer of the said ship or vessel so in distress, as aforesaid, or for the said officer of the customs, or constables, on board the same ship or vessel, to repel, by force, any such person or per-

sons as shall, without such leave or consent from the said commander or superior officer, or the said officer of the customs, or his deputy, or such constables, as aforesaid, press on board the said ship or vessel so in distress, as aforesaid, and thereby molest them in the preservation of the said ship or vessel so in distress, as aforesaid."

12 Anne, c. 18.

And by the 26 Geo. II. c. 19, s. 13, "to prevent confusion among persons assembled to save any ship, vessel, goods, or effects, as aforesaid, either for want of proper orders, or by contradictory orders," it is enacted, "that all persons so assembled shall conform, in the first place, to the orders of the master or other officers or owners, or other persons employed by them; and, for want of their presence or directions, then, in the next place, to the orders of the persons authorized by this act, or the aforesaid act of Queen Anne, in the like manner, in the following subordination, as any of the said persons shall happen to be present: that is to say, in the first place, to the orders of any officer or officers of the customs; then of any officer or officers of the excise; then of the sheriff or his deputy; then of any justice or justices of the peace; then of the mayor or chief magistrate of any corporation; then of the coroner; then of any commissioners of the land-tax; then of any chief constable; then of any petty constable or other peace-officers: and any person whatsoever acting knowingly and wilfully contrary to such orders, shall forfeit any sum not exceeding 5*l.*, to be levied by warrant of one justice of the peace; and, in case of non-payment, the offender shall be committed to the house of correction for any time not exceeding three months."

Orders in case of shipwreck, &c.

Acting contrary. Penalty.

Sec. 6. Every such sheriff, justice, mayor, coroner, lord of a manor, under-sheriff, or commissioner of the land-tax, shall have 4*s.* a-day during his attendance, out of the goods saved.

By the 12 Anne, st. 2, c. 18, s. 2, "for the encouragement of such persons as shall give their assistance to such ships or vessels so in distress, as aforesaid," it is enacted, "that the said collectors of the customs, and the master or commanding officer of any ships or vessels, and all others who shall act or be employed in the preserving of any such ship or vessel in distress, as aforesaid, or their cargoes, shall, within thirty days after the service performed, be paid a reasonable reward for the same, by the commander, master, or other superior officer, mariners, or owners of the ship or vessel so in distress, as aforesaid, or by the merchant whose ship, vessel, or goods, shall be so saved, as aforesaid; and, in default thereof, the said ship, vessel, or goods so saved, as aforesaid, shall remain in the custody of such officer of the customs, or his deputy, until such time that all charges shall be paid, and until the said officer of the customs, or his deputy, and the said master, or other officer of the ship or vessel, and all others so employed, as aforesaid, shall be reasonably gratified for their said assistance and trouble, or good security given for that purpose, to the satisfaction of the several parties that are to receive the same; and that, in case, after such salvage, the commander, or other superior officer, mariners, or owners of such ship or vessel so saved, as aforesaid, or merchant whose goods shall be so saved, as aforesaid, shall disagree with the said officer of the customs, or his deputy, touching the monies deserved by any of the persons so employed, as aforesaid, it shall be lawful for the commander of such ship or vessel so saved, or the owner of the goods, or the merchant interested therein, and also for the said officer of the customs, or his deputy, to nominate three of the neighbouring justices of the peace, who shall thereupon adjust the *quantum* of the monies or gratuities to be paid to the several persons acting or being employed in the salvage of the said ship, vessel, or goods; and such adjustment shall be binding to all parties, and shall be recoverable in an action at law to be brought in any of her majesty's courts of record, by the respective persons to whom the same shall be allotted by the said justices of peace; and in case it shall happen that no person shall appear to make his claim to all or any the goods that shall be saved, that then and in such case the chief officer of the customs of the nearest port to the place where the said ship or vessel was so in distress, as aforesaid, shall apply to three of the nearest justices of the peace, who shall put him or some other responsible person in possession of the said goods, such justices of peace taking an account in writing of the said goods, to be signed by such

Reasonable salvage to be made.

Three justices to adjust the quantum.

Goods not claimed in twelve months, to be sold.

12 Anne, c. 18.

and the monies transmitted into the Exchequer.

officer of the customs; and if the said goods shall not be legally claimed within the space of twelve months next ensuing, by the rightful owner thereof, then public sale shall be made thereof, and if perishable goods, forthwith to be sold, and after all charges deducted, the residue of the monies arising by such sale, with a fair and just account of the whole, shall be transmitted to her majesty's Exchequer, there to remain for the benefit of the rightful owner when appearing, who, upon affidavit or other proof made of his or their right or property thereto, to the satisfaction of one of the barons of the coife of the Exchequer, shall, upon his order, receive the same out of the Exchequer."

Salvage.

By the 26 Geo. II. c. 19, s. 5, if any persons, not employed by the masters, mariners, or owners, or other persons lawfully authorized, shall, in the absence of persons so employed, save any vessel or goods, and cause them to be carried, for the benefit of the owners, into port, or any adjoining custom-house, or other place of safe custody, immediately giving notice thereof to a justice, magistrate, custom-house or excise officer, they shall be entitled to a reasonable reward for the same, to be adjusted by three neighbouring justices, which may be recovered by action of law (as in 12 Anne); or the same may be adjusted by the officers above mentioned. And by sect. 7, if the said salvage (and the charges of 4s. a-day, as above mentioned) shall not be paid in forty days after the services performed, the officer of the customs concerned in the salvage may borrow or raise so much money as shall pay the same upon the bill or bills of sale, under his hand and seal, of the vessel or cargo, or part thereof; redeemable, nevertheless, on payment of the principal and interest at four *per cent*.

1 & 2 Geo. 4, c. 75.

By the 1 & 2 Geo. IV. c. 75, intituled, "An Act to continue and amend certain Acts for preventing Frauds and Depredations committed on Merchants, Ship-Owners, and Underwriters, by Boatmen and others; and also for remedying certain Defects relative to the Adjustment of Salvage in England, under an Act made in the Twelfth Year of Queen Anne:" after reciting that, "whereas, by an act passed in the forty-ninth year of his late majesty King George the Third, intituled 'An Act for preventing Frauds and Depredations on Merchants, Ship-Owners, and Underwriters, by Boatmen and others; and also for remedying certain Defects relative to the Adjustment of Salvage in England, under an Act made in the Twelfth Year of Queen Anne;' which act was to continue in force for seven years, and from thence to the end of the next session of Parliament: and whereas by an act passed in the fifty-third year of his late majesty King George the Third, the said above-recited act (except so far as the same was altered and extended) was further continued in force for seven years from the passing of the said act, and from thence to the end of the next session of Parliament, and no longer: and whereas it is fit and expedient that the said above-recited acts should be further continued, except so far as the same are altered by this act:" it is enacted, "that all pilots, boatmen, hovellers, or other persons, who shall take up any anchors, cables, tackle, apparel, furniture, stores, or materials, or any goods or merchandize which may have been parted with, cut from, or left by any ship or vessel within any harbours, rivers, or bays, or on any of the coasts of this kingdom, whether the same ship or vessel shall be or shall have been in distress or otherwise, and which shall have been weighed, swept for, or taken possession of by any such boatman, pilot, hoveller, or other person, shall send a report in writing of the articles so found, and stating the marks, if any, thereon, and also an accurate and particular description of the bearings, distances, and situations, and time when and where the same were so found, to a deputy vice-admiral or his agent, at or near to the port or place where such boatman, pilot, hoveller, or other person, shall first arrive with such articles, within forty-eight hours after his or their arrival at such port or place, or before he or they shall leave the port, if he or they shall quit it before that time shall expire: and shall also, within such period as aforesaid, deliver such articles so found into a proper warehouse or such other place as the vice-admiral of each county shall appoint for safe custody, until the same shall be claimed by the owner or owners thereof, or his, her, or their agent or agents, and the salvage, together with such other charges and expenses as are hereinafter directed to be paid in respect of such articles, paid by him or them.

Pilots and others taking up anchors, cables, and other ships' materials, to report to deputy vice admiral, and deliver the same articles in the places to be appointed by this act.

Salvage.

or security given for the payment thereof, to the satisfaction of the salvor or salvors thereof; and every such pilot, boatman, hoveller, or other person, who shall wilfully and fraudulently keep possession of, or retain or conceal, or secrete any anchors or cables, tackle, apparel, furniture, stores, or materials, or any goods or merchandize, or deface, take out, or obliterate the marks and numbers thereon, or alter the same in any manner, with intent thereby directly or indirectly to prevent the discovery and identification of such articles so found, weighed, swept for, or taken possession of as aforesaid, and shall not report and deliver the same at some proper warehouse or other place in the manner aforesaid, and within the time hereinbefore limited, shall forfeit all claim to salvage, and shall, on conviction, be adjudged and deemed guilty of receiving goods knowing them to have been stolen, and shall suffer the like punishment as if the same had been stolen on shore." See also a similar enactment, in the 49 Geo. III. c. 122, s. 1.

1 & 2 Geo. 4, c. 78.
Concealing such articles, forfeiture of salvage, and punishment.

Section 2. "That every deputy vice-admiral or his agent, to whom any such report shall be sent, shall within two days forward the same, or a true copy thereof, to the secretary of the corporation of the Trinity House of Deptford Strond in London, and the same shall be placed by the said secretary in some conspicuous situation, for the inspection of all persons choosing to inspect and examine the same; provided always, that no report shall be forwarded by such deputy vice-admiral or his agent to the said corporation of the Trinity House of Deptford Strond, until the articles so to be deposited as aforesaid, for and in respect of which a report is required to be made as hereinbefore is directed, shall amount in value to the sum of 20*l*." See also a similar enactment in the 49 Geo. III. c. 122, ss. 2, 3.

Deputy vice-admiral to send report to Trinity House.

No report sent until articles amount to 20*l*.

Section 3. "That it shall be lawful for any deputy vice-admiral or his agent to seize and detain any such articles as shall not have been reported in the manner hereinbefore directed; and upon such seizure such deputy vice-admiral or his agent shall deposit the same in the warehouse or other place to be appointed as aforesaid, and shall within two days thereafter send a report in writing of the articles as seized, and stating the marks (if any) thereon, to the said corporation of the Trinity House of Deptford Strond, as before directed, to be made public as aforesaid; and every such deputy vice-admiral or his agent, so seizing, who shall not make such report as aforesaid within two days after seizure as aforesaid, shall, on conviction before any justice of the peace or magistrate, upon the oath of one credible witness, or on the confession of the party offending, forfeit and pay the sum of 20*l*. for every such neglect, together with double the value of the goods so seized, one half of which penalty shall be paid to the informer, and the other half to the poor of the parish or township where such offence shall be committed; and every deputy vice-admiral or his agent, who shall make any such seizure, without any previous information being given to such deputy vice-admiral or his agent, shall, on the same articles being claimed by and delivered to the owner thereof, or his or her agent, be entitled to receive such sum of money as shall be equal to one-third part of the value thereof, after the payment of the duties, and any charges incidental to the recovery and preservation of the same." See also a similar enactment in the 49 Geo. III. c. 122, s. 4.

Deputy vice-admiral may seize goods not reported and deposited, and make report thereof to Trinity House.

Penalty.

In what case one third of value of goods to deputy vice-admiral.

Section 4. "Provided, that if the owner and deputy vice-admiral or agent so seizing cannot agree on the value of the articles, such value shall be ascertained in like manner as is hereinafter directed with regard to salvage, or be referred to the decision of the High Court of Admiralty." See the 49 Geo. III. c. 122, s. 5.

Mode of ascertaining value of articles seized.

Section 5. "Provided that, if any such seizure shall have been made in consequence of any information given to any such deputy vice-admiral or his agent, the deputy vice-admiral or his agent so seizing shall only be entitled to receive from the owners or their agents of the articles one sixth part of the value thereof, and one other one-sixth of such value shall be paid to the person who shall have given the information, the value of such articles to be ascertained in manner aforesaid." See the 49 Geo. III. c. 122, s. 6.

If deputy vice-admiral seize by previous information, he and informer to divide

Section 6. "That if any such articles, so reported and delivered into the warehouse or other place as aforesaid, shall not be claimed within a year and a day after such report shall have been transmitted to the said corporation of the Tri-

2-6th parts. Articles not claimed within a limited time, sold according to 12 Anne, st. 2, c. 16.

1 & 2 Geo. 4, c. 75.

In what case deputy vice-admiral seizing, and informer, equally entitled to salvage.

If owners and salvors cannot agree respecting salvage, three justices to determine.

† *Sic.*

If justices cannot agree, they shall nominate a third person, conversant in maritime affairs, who shall determine.

Justices may in like manner determine upon remuneration to be made for services rendered to ships in distress or otherwise.

Appeal to Court of Admiralty.

Persons entitled to salvage dissatisfied may appeal to High Court of Admiralty; but goods to be restored to owners on giving bail.

nity House of Deptford Stroud, as before mentioned, the same shall be sold, and a certificate of such sale shall be delivered to the purchaser thereof, under the directions of the High Court of Admiralty, and the monies arising from the sale thereof be applied in the manner directed in and by an act passed in the twelfth year of the reign of her late majesty Queen Anne, intituled, 'An Act for preserving all such Ships and Goods thereof which shall happen to be found on Shore, or stranded on the Coasts of this Kingdom, or any other of her Majesty's Dominions;' and if the same shall have been seized by the deputy vice-admiral or his agent as aforesaid, then the deputy vice-admiral or agent so seizing, and the person who shall have given such information as shall have led to the seizure (if any such information shall have been given), shall be equally entitled to the salvage which shall be allowed by the High Court of Admiralty to the salvors in the case of unclaimed property." See the 49 Geo. III. c. 122, s. 7.

Sect. 7. "That if the salvors of any such articles, or any goods so found, weighed, swept for, or taken possession of as aforesaid, and so lodged and reported as aforesaid, and the owner or owners thereof, or his, her, or their agent or agents, cannot agree respecting the amount of salvage to be paid for or in respect of the same, or the value thereof, as the case may be, then the matter in difference shall be determined by any three justices of the peace residing near to the place where such articles or goods shall be deposited,† shall begin to proceed in their inquiry, as to such matters in dispute, within forty-eight hours after such difference shall be referred to them for their determination thereof; and if they cannot agree respecting the same, then it shall be lawful for them to nominate any third person, conversant in maritime affairs, at their option, who shall ascertain the amount of the salvage to be paid, or the value thereof, as the case may be, within forty-eight hours after he shall have been so nominated as aforesaid; and the said justices, and such third person so nominated as aforesaid, shall have full power and authority, whenever they see occasion, to examine the parties or their witnesses upon oath, which oath they are hereby authorized to administer." See also the 49 Geo. III. c. 122, s. 8.

Sect. 8. "That it shall also be lawful for the said justices to decide, in the like manner, and within the same time as is hereinbefore directed with regard to salvage, on all claims and demands whatsoever, which shall or may be made by pilots, boatmen, and other persons, for service of any description (except pilotage) to be rendered by them to any ship or vessel, as well for carrying off from the shore to such ship or vessel any anchors, cables, or other stores from any port or ports of the coast of England and Wales, and Berwick-upon-Tweed, or for the saving and preserving any goods and merchandize which may have been wrecked, stranded, or cast away from any ship or vessel, or for being instrumental in saving the life or lives of any person or persons on board the said ship or vessel, the master, owner, or owners of such ship or vessel, or his, her, or their agent or agents, being present with such justices; and that the said justices shall have full power and authority to hear and determine on all cases whatever, of services rendered by pilots, boatmen, and others, to ships or vessels (except pilotage), whether such ships or vessels shall at the time be in distress or not, and that they shall have the like power of examining the parties or their witnesses upon oath, as last hereinbefore directed; and the decision of such justices shall be final and conclusive on all parties, save and except in such cases in which an appeal shall be interposed by either party to the High Court of Admiralty, such appeal to be interposed within thirty days after the award of the justices, or such person so appointed as aforesaid." See also the 49 Geo. III. c. 122, s. 9.

Sect. 9. "That in case the party or parties so claiming to be entitled to salvage, or the party or parties who is or are to pay the same, or their agents, shall be dissatisfied with such award and decision of the justices, or of the person so to be nominated by them as aforesaid, it shall be lawful for either of them respectively, within ten days after such award is made, but not afterwards, to declare to the justices, or such other person to be nominated by them as aforesaid, his, her, or their desire of obtaining the judgment of the High Court of Admiralty respecting the said salvage; and thereupon he, she, or they shall

proceed, by taking out a monition within thirty days from the date of the said award; but in such case the said justices are hereby required and empowered to deliver to the owners and proprietors or their agents any such anchor or cable, goods, or other articles, respecting which any claim for salvage shall be made upon the owners or proprietors thereof, his, her, or their agent, giving good and sufficient bail in the amount of the sum awarded for salvage or compensation, and which bail shall be taken by a commissioner for taking examinations in prize cases, if there shall be one in the port or place where such difference shall arise; but if there shall be no such commissioner there, then the said justices, to whom such difference shall have been referred, or either of them, or any other of his majesty's justices of the peace, are and is hereby authorized to take the same; and the commissioner or justice who shall take such bail, shall certify the same according to the form contained in the schedule hereunto annexed, and transmit the same without delay to the High Court of Admiralty, together with a true certificate in writing of the gross value of the whole of the articles respecting which salvage shall be claimed, and also a copy of such proceedings and awards, on unstamped paper, certified under the hand of such commissioner or justice taking the bail as aforesaid: and the same shall be admitted by such Court of Admiralty as evidence in the cause." See also the 49 Geo. III. c. 122, s. 10.

1 & 2 Geo. 4, c. 75.

Bail to be taken by a commissioner in prize cases, if there is one in the place, otherwise by a justice.

Certificates of value and proceedings.

Evidence.

Sect. 10. "That it shall and may be lawful for the person so to be named by the said justices as aforesaid, who shall decide on the amount of salvage to be paid, or on the value of the articles, or on the remuneration to be made to persons rendering assistance to ships or vessels or persons, as aforesaid, to demand and receive of and from the owner or owners of the articles saved, or of the ships or vessels in behalf of which the services may have been rendered, or his, her, or their agents or agent, a sum of money not exceeding 2*l.* 2*s.*; and such owner or owners, or his, her, or their agent or agents, shall and is and are hereby required to pay to the person so to be nominated by the said justices nominated as aforesaid, such fee or reward, immediately after he shall have made his award or decision, and on delivery of the same." See also the 49 Geo. III. c. 122, s. 11.

Persons named by justices to decide on the amount of salvage, &c., may demand from the owner 2*l.* 2*s.*

Sect. 11. "That if any person or persons shall wilfully cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall do or commit any act with intent and design to cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other way injure or conceal any buoy, buoy-rope, or mark belonging to any ship or vessel, or which may be attached to any anchor or cable belonging to any ship or vessel whatsoever, whether in distress or otherwise, such person or persons so offending shall, on being convicted of such offence, be deemed and adjudged to be guilty of felony, and shall be liable to be transported for any term not exceeding seven years, or in mitigation of such punishment to be imprisoned for any number of years, at the discretion of the court in which the conviction shall be made." See also the 49 Geo. III. c. 122, s. 12.

Cutting away or defacing buoy-ropes, &c. felony.

Sect. 12. "That if any person shall knowingly and wilfully, and with intent to defraud and injure the true owner or owners thereof, or any person interested therein as aforesaid, purchase or receive any anchors, cables, or goods or merchandize which may have been taken up, weighed, swept for, or taken possession of, whether the same shall have belonged to any ship or vessel in distress or otherwise, or whether the same shall have been preserved from any wreck, if the directions hereinbefore contained with regard to such articles shall not have been previously complied with, such person or persons shall, on conviction thereof, be deemed guilty of receiving stolen goods, knowing the same to be stolen, as if the same had been stolen on shore, and suffer the like punishment as for a misdemeanor at the common law, or be liable to be transported for seven years, at the discretion of the court before which he, she, or they shall be tried." See also the 49 Geo. III. c. 122, s. 13.

Persons fraudulently purchasing or receiving anchors, cables, &c., considered receivers of stolen goods.

Sect. 13. "That in case the master, mate, or crew of any ship or vessel bound to parts beyond the seas, shall find and take on board of such ship or vessel, any anchor, cable, or any goods or merchandize, or shall receive any anchor, cable, or any goods or merchandize on board of such ship or vessel, from any other person or persons who may have found the same, knowing

Masters of ships bound to parts beyond the seas, finding or taking on board anchors and other articles,

1 & 2 Geo. 4, c. 75.
to make entry in
the log-book, and
report to Trinity
House, and on
their arrival in
England deliver
the articles to a
deputy vice-ad-
miral.

If not claimed,
to be sold.

Master making
default, forfeiture
of salvage and
penalty.

Application of
penalty.

20 Geo. 2, c. 38.

Fees to be paid
for reports.

Selling or dis-
posing of anchors
or cables weighed
for, &c., in
foreign countries.

Felony.

the same to have been so found, the master, mate, or other person having the command of such ship or vessel, shall make a true entry in the log-book of such ship, of the description of the articles so found or taken on board as aforesaid, stating the marks (if any) thereon, and the bearings and distances, and other minute description, and the time when and where the same were found and taken on board; and also shall, at the first possible opportunity, transmit a report in writing, containing a true copy of such entry in the log-book of the said ship or vessel, to the said corporation of the Trinity House of Deptford Strond, and on the return of such vessel to any port in England or Wales, or Berwick-upon-Tweed, he shall deliver the same articles into the possession of a deputy vice-admiral or his agent, in or nearest to such port at which he shall arrive, and within twenty-four hours after his arrival, with the like report as is hereinbefore directed; and such deputy vice-admiral or agent is hereby required to transmit such report to the said corporation of the Trinity House at Deptford Strond, to be placed by the said corporation for inspection in like manner as aforesaid; and if the same shall not be claimed by the owner or owners thereof, or his, her, or their agent, within a year and a day after such report shall be transmitted, the same shall be sold and disposed of according to law with regard to unclaimed property; and in default thereof, or if the master of such ship or vessel shall sell or dispose of such anchor, cable, goods, or merchandize to any person or persons whomsoever, or shall not, upon his first return to any port within England and Wales or Berwick-upon-Tweed, report and deliver the same according to the provisions of this act, he shall, for every such offence, forfeit all claim to salvage, and, on being thereof lawfully convicted before any justice of the peace or magistrate, on the oath of one credible witness, or on the confession of the party offending, forfeit and pay any sum not exceeding 100*l.*, nor less than 30*l.*; one-half of which penalty shall be paid to the informer, and the other half to the president and governors, for the relief and support of such maimed and disabled seamen, and of the widows and children of such as shall be killed, slain, or drowned, in the merchants' service, under an act of Parliament made in the twentieth year of the reign of his late majesty King George the Second, intituled, "An Act for the Relief and Support of maimed and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchants' Service;" and shall also forfeit and pay double the value of such articles to the owners or owner thereof." See also the 49 Geo. III. c. 122, s. 14.

Sec. 14. "That it shall and may be lawful for the deputy vice-admiral or his agent, who shall make the report required by this act to the said corporation of the Trinity House of Deptford Strond as aforesaid, to receive of and from the owner or owners of the articles in respect of which the report shall be made, or if the same are not claimed, then out of the produce of the sale thereof, the sum of 1*l.* 1*s.* for each report; and that it shall also be lawful for the secretary, or other proper officer of the said corporation of the Trinity House of Deptford Strond, to receive in like manner as last mentioned, the sum of 1*l.* 1*s.* for each report so to be received by the said corporation, to be made public by them as aforesaid, which last-mentioned sum shall be paid to the said deputy vice-admiral, or his agent, before the delivery of the goods, and accounted for by him to the Trinity House." See also the 49 Geo. III. c. 122, s. 15.

Sec. 15. "And whereas pilots, hovellers, boatmen, and other persons in small vessels have for many years conveyed anchors and cables which may have been weighed, swept for, or taken possession of by them as aforesaid, or which they may have purchased of other persons, knowing them to have been weighed, swept for, or taken possession of, without being reported as aforesaid, to foreign countries, and there sold and disposed of, to the manifest injury and loss of the owners thereof; for remedying whereof, be it further enacted, that every pilot, hoveller, boatman, or the master of any such vessel, who shall convey any such anchor or cable to any foreign port, harbour, creek, or bay, and there sell and dispose of the same, shall be deemed and adjudged guilty of felony, and shall be transported for any term not exceeding seven years." See also the 49 Geo. III. c. 122, s. 16.

Sect. 16. "That all persons who shall trade or deal in buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any kind or description, shall have their names, with the words 'Dealer in Marine Stores,' painted distinctly in letters of not less than six inches in length, upon the front of all their storehouses, warehouses, and other deposits for such goods; and in default of their so doing, they shall, on conviction before any justice or justices of the peace, or magistrate or magistrates of any jurisdiction where such storehouse, warehouse, and depot shall be, upon the oath of one credible witness, or on confession of the party offending, forfeit and pay a sum not exceeding 20*l.*, nor less than 10*l.*; one-half of which penalty shall be paid to the informer, and the other half to the poor of the parish or township where such offence shall be committed; and that it shall not be lawful for such dealers or traders to cut up any cable, or any part of a cable, exceeding five fathoms in length, or uncant, untwine, or unlay the same into junk or paper stuff, on any pretence whatsoever, without first obtaining a permit from some justice of the peace or magistrate residing near to the residence of such dealer, which permit shall not be granted, unless an affidavit shall have been made that the cable so intended to be cut up had been *boná fide* purchased, and without fraud, by the party so intending to cut up the same, and without any knowledge or suspicion on his or her part, that the same had been or were dishonestly come by; and in which affidavit shall also be specified the particular quality and description of such cable, and the name or names of the seller or sellers thereof; which affidavit shall be recited and set forth at length in the permit thereupon granted, on pain of forfeiting, for the first offence, any sum not exceeding 20*l.*, nor less than 10*l.*; and for every second or further offence, any sum not exceeding 50*l.*, nor less than 20*l.*, to be recovered before any justice of the peace; and one-half thereof to go to the informer, and the other half to the poor of the parish in which such offence shall have been committed." See also the 49 Geo. III. c. 122, s. 17.

Sect. 17. "That, for the more effectual prevention of such frauds, all dealers in such marine stores as aforesaid, shall keep a book or books, fairly written, in which entries shall be from time to time regularly made, of all such old marine stores as shall be by them from time to time bought, containing a true account and description of the times when the same were so respectively bought by them, and of the names and places of abode of the respective sellers thereof; and before any person who shall obtain such permit for the cutting up of any such cable (as hereinbefore required to be obtained), shall proceed to cut up the same by virtue thereof, there shall be published, by the space of one week at least before the cutting up the same, one or more advertisement or advertisements in some public newspaper printed nearest to the storehouse, warehouse, or depot where the articles shall be deposited, notifying that such party had obtained such permit for the purpose of cutting up such cable, and of such kind and quality as therein described, and also specifying the place where such articles shall be deposited; whereupon it shall be lawful for all and every person or persons who may have just cause to suspect that such articles are the property of such person or persons, and shall have verified upon oath the fact of such his or their suspicion before any justice of the peace or magistrate residing near to the said storehouse, warehouse, or depot, by warrant for that purpose thereupon granted, to require of and from such dealer, who shall have so advertised, and shall be so sworn to be suspected as aforesaid, the production and examination of the book or books of entries hereby required by him or her to be kept, and inspect and examine the cables described in such permit; and in case any such dealer, when so thereunto required as aforesaid, shall neglect or refuse to produce to the person named in such warrant, as the person on whose oath the same shall have been obtained, the book or books containing the entries of such dealer so required to be made therein as aforesaid, or shall neglect to keep any such book or books in which entries, containing accounts of the several particulars hereinbefore required to be entered, shall be made, or to permit such inspection or examination as aforesaid, or shall, after obtaining such permit for the cutting up of any such cable, and before the cutting up of the same, neglect to publish such

1 & 2 Geo. 4, c. 78.
Dealers in marine stores not having their names painted on their storehouses.

Penalty.

Cutting up cable without permit from magistrate; to be granted on affidavit stating as herein mentioned;

Penalty.

First offence.
Further offence.

Dealers to keep account of old stores bought by them;

to advertise before cutting up of cordage.

Persons herein described may demand inspection of books.

Refusing inspection, neglecting to keep books, or to publish advertisements.

1 & 2 Geo. 4, c. 75.

Penalty.

First offence.

Further offence.

Recovery of penalties.

Manufacturers of anchors to place name and marks on anchors and ke edge-anchors.

Penalty.

Form of conviction.

Appeal from conviction to general quarter sessions.

Notice.

Proof of notice.

one or more advertisement or advertisements relative thereto, as is hereinbefore directed and required, the dealer or dealers so offending in all or any of the particulars hereinbefore mentioned, shall forfeit and pay for every such offence, being his, her, or their first offence, any sum not exceeding 20*l.*, nor less than 10*l.*; and for every second or further offence, any sum not exceeding 50*l.*, nor less than 20*l.*; one-half of which penalty shall, on conviction before any justice of the peace or magistrate residing near as aforesaid, be paid to the informer, and the other half to the poor of the parish or township in which such offences shall be committed; and in case any of the penalties by this act imposed shall not be paid, with the charges incident to the conviction, immediately upon such conviction, the same shall and may be levied by warrant under the hand and seal of such justice of the peace or magistrate, upon the goods and chattels of any such offender or offenders; and in case no sufficient distress shall be found, then every such offender or offenders shall and may be committed by any justice of the peace or magistrate as aforesaid to gaol, in case of any first offence, for the space of six calendar months; and in case of any second or further offence, for the space of twelve calendar months, unless the said penalty and the charges shall be sooner paid." See also the 49 Geo. III. c. 122, s. 18.

Sect. 18. "That all manufacturers of anchors and kedge-anchors shall place his, her, or their name or names, together with a progressive number, and also the weight of the anchor, in legible characters upon the crown, and also upon the shank under the stock of each anchor, which he, she, or they shall manufacture; and shall also place his, her, or their name or names, together with a number, and also the weight of the kedge-anchor, upon the crown, and also upon the shank near to the stock of every kedge-anchor, which he, she, or they shall manufacture; and in case any such manufacturer shall neglect to place such name, number, or weight in the manner hereinbefore directed and required, every such person or persons so offending, shall, on conviction before any justice of the peace or magistrate, on the oath of one credible witness, or on the confession of the party so offending, forfeit and pay any sum not exceeding 5*l.*, nor less than 40*s.*; one-half of which penalty shall be paid to the informer, and the other half to the poor of the parish or township in which such offence shall be committed." See also the 49 Geo. III. c. 122, s. 19.

Sect. 19. "That all and every justice or justices of the peace before whom any person shall be convicted of any offence against this act, shall and may cause the conviction to be drawn up according to the following form; *videlicet*,

"*Be it remembered, that, on the day of , in the year of our Lord , A. B. is convicted before me, , [or, us], one [or, two, as the case may be] of his majesty's justices of the peace for the [here specify the offence, and the time and place when and where committed, as the case may be]; contrary to an act passed in the second year of the reign of his late majesty King George the Fourth, intituled [here insert the title of this act, ante, p. 1046.] Given under my hand and seal [or, our hands and seals], the day and year first above written.*"

And no certiorari, or other writ or process for the removal of any such conviction, or any proceedings thereon, into any of his majesty's courts of record at Westminster, shall be allowed or granted." See also the 49 Geo. III. c. 122, s. 20.

Sect. 20. "That it shall and may be lawful to and for any person or persons so convicted by any justice or justices of the peace before mentioned, of any offence or offences against this act, within three calendar months next after such conviction, to appeal to the justices of the peace assembled at the general quarter sessions holden for the county, city, or place where the matter of appeal shall arise, first giving ten days' notice of such appeal to the person or persons so appealed against, and of the matter thereof, and entering into a recognizance before some justice of the peace for such county, city, or place, with two sufficient sureties, conditioned to try such appeal, and for abiding the determination of the court therein; and such justices at the general quarter sessions shall, upon due proof of such notice having been given and recognizance entered into, hear and determine the matter of such appeal, and may either confirm or quash and annul the said conviction, and award such costs to either party as to them shall

seem just and reasonable, and the decision of the said justices therein shall be final, binding, and conclusive; and no proceeding to be had or taken in pursuance of this act shall be quashed or vacated for want of form only, or be removed by *certiorari* or any other writ or process whatsoever, into any of his majesty's courts of record at Westminster or elsewhere; any law or statute to the contrary thereof in anywise notwithstanding." See also the 49 Geo. III. c. 122, s. 21.

1 & 2 Geo. 4, c. 75.

Final.

No *certiorari*, &c.

Sect. 21. " Provided, that the inhabitants of any parish, township, or place, shall be deemed and taken to be competent witnesses, for the purpose of proving the commission of any offence against this act, within the limits of such parish, township, or place, notwithstanding the penalty incurred by such offence or any part thereof is or may be given or applicable to the poor of such parish, township, or place, or otherwise for the benefit or use or in aid or in exoneration of such parish, township, or place." See also the 49 Geo. III. c. 122, s. 22.

Inhabitants may be competent witnesses.

Sect. 22. " That all felonies, misdemeanors, and other offences under this act, shall and may be laid to be committed, and shall be tried in any city or county (being a county) where any such article, matter, or thing, in relation to which such offence shall have been committed, shall have been found in the possession of the person committing the offence; or if the same shall have been sold in foreign parts, then in the county or place in which the person selling the same shall reside." See also the 49 Geo. III. c. 122, s. 23.

Offences tried in county where articles found, or if sold in foreign parts, where offenders reside.

Sect. 23. " Provided, that nothing in this act contained shall extend or be construed to extend to or be in force within the limits specified and directed in an act passed in the forty-eighth year of the reign of his late majesty, intituled, ' An Act for preventing the various Frauds and Depredations committed on Merchants, Ship-Owners, and Underwriters, by Boatmen and others, within the Jurisdiction of the Cinque-Ports; and also for remedying certain Defects relative to the Adjustment of Salvage under a Statute made in the Twelfth Year of the Reign of Her late Majesty Queen Anne,' or in any manner to affect any of the provisions of the said act; but the said recited act shall remain in full force, within the limits therein specified, as if this act had not been passed: provided also, that nothing in this act contained shall extend or be construed to extend to repeal, take away, or alter any of the clauses, powers, or provisions contained in an act of Parliament made in the forty-eighth year of the reign of his late majesty, intituled, ' An Act for the better Regulation of Pilots, and of the Pilotage of Ships and Vessels navigating the British Seas; ' but that the said act shall remain in full force as if this act had not been passed."

Proviso for 46 Geo. 3, c. 130.

and for 46 Geo. 3, c. 104.

By sections 24 and 25, this act is not to extend to take away, abridge, prejudice, or impeach, in any manner whatever, the jurisdiction of the Admiralty Court of England, or of the Admiralty Court of the Cinque Ports, two ancient towns and their members, or of the Admiralty Court of the borough of Great Yarmouth, in Norfolk, or of the Admiralty Court of the borough of Dunwich, in Suffolk, or of the Admiralty Court of the borough of Southampton, in Hants, or of the Admiralty Court of the borough of Southwold, in Suffolk, or of the Admiralty Court of the borough of Lynn Regis, in Norfolk; nor to deprive or in any ways prejudice the rights of his majesty, or any patentee or grantee of the crown, or any lord or lords, or lady or ladies, of any manor or manors whatsoever. See also the 49 Geo. III. c. 122, ss. 26, 27.

Reservation of the rights of the High Court of Admiralty, &c.

Reservation of the rights of the crown, and of lords and ladies of manors.

Sect. 26. " That no lord or lady of any manor, or other person who may be entitled to, or claim to be entitled to, wreck of the sea, or to any goods found jetsam, flotsam, or lagan,* shall be entitled to appropriate such wreck or goods to his, her, or their own use, or otherwise to dispose thereof, until he, she, or they shall have caused a report thereof in writing to be given to the deputy-vice-admiral of that part of the coast where the same shall have been stranded, wrecked, or found, or to his agent; or, if there shall be no such deputy-vice-admiral or agent residing within the distance of fifty miles, then to the corporation of the Trinity House of Deptford Strand; which report shall contain an accurate and particular description of the wreck or goods found, and of the place or places and time or times where and when the same may have been found, and of any marks that may be thereon, and of such other particulars as may the better enable the owner or owners thereof to recover the same, and also of the place or places where the same are deposited and may be found and

Lords of manors not to lay claim to wrecks till report made to the deputy vice-admiral of the coast, &c.
* Sic in act.

1 & 2 Geo. 4, c. 75-

Deputy vice-admiral to transmit a copy of report to secretary of Trinity House.

Penalty, 50l.

Proviso for 52 Geo. 3, c. 159.

Perishable goods may be sold, with consent of a justice. (a)

Money to be deposited in the hands of lord of manor, &c.

Account of sale transmitted to deputy vice-admiral, who is to forward reports to secretary of Trinity House.

Goods saved from vessels wrecked, to be forwarded to the ports of their original destination.

Deputy vice-admiral, &c., with

examined by any person claiming any right to such wreck or goods, nor until the full expiration of a year and a day after the delivery of such notice, anything in any law to the contrary notwithstanding; and the deputy vice-admiral or agent aforesaid shall, within forty-eight hours after receiving such report as aforesaid, transmit a copy thereof to the secretary of the corporation of the Trinity House of Deptford Strond, upon pain of forfeiting for any neglect to transmit such account as aforesaid, the sum of 50l. to any person who will sue for the same; and the said secretary shall cause such account to be placed in some conspicuous situation, for the inspection of all persons claiming to inspect and examine the same: provided always, that nothing herein contained shall extend, or be construed to extend, to repeal or in any manner to affect any of the provisions of an act passed in the fifty-second year of his late majesty, intituled, 'An Act for charging Foreign Liquors and Tobacco, derelict, jetsam, flotsam, lagan, or wreck, brought or coming into Great Britain, with the Duties payable on Importation of such Liquors and Tobacco.'" See also the 52 Geo. III. c. 159; 53 Geo. III. c. 87, s. 2.

Sect. 27. "That when any goods which shall be found or taken possession of by any lord or lady of any manor, or person entitled or claiming to be entitled to wreck of the sea, or to goods found flotsam, jetsam, or lagan, or his or her agent or servant, or by any vice-admiral, or his deputy or agent, or by any officer or other person whatsoever acting by or under the authority of this act, or of an act passed in the present session of Parliament, intituled, 'An Act to continue and amend certain Acts for preventing various Frauds and Depredations committed on Merchants, Ship-Owners, and Underwriters, by Boatmen and others, within the Jurisdiction of the Cinque-Ports,' shall be of so perishable a nature, or so much injured or damaged, that the same cannot be kept, then and in every such case such goods shall and may, at the request of any of the persons interested or concerned therein, or in the saving and preserving thereof, by and with the consent and approbation of some justice of the peace, not interested or concerned in the same, or in the saving or preserving thereof, and in the presence of such justice, or of some person for that purpose specially appointed by such justice, be sold by public auction or private contract, as such justice may direct by some writing under his hand, which writing shall contain an accurate and particular account of the goods, and of the marks that may be thereon, or other particulars belonging thereto, and of the times and places of the finding and intended sale thereof; and the money raised by such sale, after defraying the reasonable expenses of the sale, to be settled and allowed by such justice, shall be deposited and remain in the hands of the lord or lady of the manor, or other person, or deputy vice-admiral, who would have received the custody of the goods so sold, to abide and be subject and liable to the claims of all persons, in like manner as the goods themselves would be subject and liable, if remaining unsold: provided always, that all persons required to transmit reports to the deputy vice-admiral of the finding of any goods, shall, in case of any such sale as last aforesaid, likewise transmit to such deputy vice-admiral an account of such sale, and of the proceeds thereof; and the said deputy vice-admiral shall forward such reports to the secretary of the Trinity House of Deptford Strond, within the like periods and under and subject to the like penalties and forfeitures for any neglect therein, as in cases of any goods found and required to be reported under the provisions of the said recited act and this act." See also the 53 Geo. III. c. 87, s. 3.

Sect. 28. "That it shall and may be lawful to and for the commissioners of customs and excise, and they are hereby required, to permit all goods, wares, and merchandize saved from any vessel or vessels stranded or wrecked on their respective homeward voyage, to be forwarded to the port or ports of their original destination; and also to permit goods, wares, and merchandize saved from any vessel or vessels stranded or wrecked on their respective outward voyage, to be returned to the port or ports at which the same were shipped; but such commissioners are to take security for the due protection of the revenue in respect of such goods, wares, and merchandize."

Sect. 29. "That it shall be lawful for the deputy vice-admiral of the part

of the coast where any ship or vessel shall be stranded or wrecked, or where any wreck of the sea or goods shall be cast on shore, and for his agent, and also for the owner or master of any such ship or vessel, and for the owners of any such goods, or of any part thereof, and for any officer of the customs or excise, and other officer, and for all persons whatsoever employed or acting in aid of, or in the assisting of any such deputy vice-admiral, officer, master, or owner as aforesaid, in the saving or recovering any such ship or vessel, or the cargo, stores, tackle, or other articles belonging to the same, or the preserving the lives of the crew or persons belonging thereto, or of any wreck as aforesaid, to pass and repass with their horses, carts, carriages, or servants, over any lands near to the part of the sea-coast where such vessel shall be so wrecked or stranded, or on which such wreck shall be cast, without interruption or obstruction by the owner or occupier thereof, for the purpose of rendering assistance in saving, recovering, and preserving any such ship or vessel, or goods or stores, or any cables, anchors, spars, masts, cordage, or other tackle or articles belonging to any ship or vessel, or for saving or otherwise assisting in preserving the lives of the crew, or of any persons on board of any such ship or vessel, or for the taking possession of, and securing for the benefit of the owners thereof, of any wreck or goods, or other things cast on shore, or found on shore, or found near thereto, provided there shall be no road by which the parties may pass and repass with as much convenience and expedition as over such lands; and also to place any planks, timber, or any part of the wreck, or any goods or stores removed or saved from any such ship or vessel, or any other wreck or goods as aforesaid, upon any such land for a reasonable time, until they can be removed to some warehouse or safe place of deposit, making compensation to the occupier of such lands for any damage done by the means aforesaid, which compensation shall be a charge upon the wreck or goods in respect whereof the damage may be done, in like manner as salvage; and in case the parties cannot agree as to the amount thereof, then the same shall be ascertained and settled by two justices of the peace, or of a third person to be named by them, in such manner and within such times as the amount of salvage is directed to be ascertained and settled by the said recited act in the forty-ninth year of his said majesty's reign." See also the 53 Geo. III. c. 87, s. 4.

1 & 2 Geo. 4, c. 75
carriages, may pass over private lands near the coast where vessels are wrecked, for the preservation of the wreck, &c.,

If no other fit road.

Compensation to occupiers.

If disagreement, two justices to settle it.

Refusing persons so employed to pass over lands, &c.

Penalty, 100*l*.

Sect. 30. "That if any owner or occupier of any land or premises, over which any person is authorized by this act to pass and repass, for any of the purposes in this act before mentioned, shall interrupt, impede, or hinder any such person from passing over his land or premises, with horses, carts, carriages, and servants, for the purposes in this act before mentioned, or any or either of them, by locking his gates, or refusing upon request to open the same, or otherwise, or shall obstruct or hinder the placing any wreck, goods, stores, or other articles upon his land, or shall prevent their remaining there for a reasonable time, until the same can be removed to some warehouse or safe place of public deposit, such occupier shall forfeit and pay to any person who will sue for the same, the sum of 100*l*., to be recovered by action of debt." See also the 53 Geo. III. c. 87, s. 5.

Sect. 31. "That any question in relation to salvage of any ship or vessel, or of any goods, which shall be performed between high and low water mark, shall be and be deemed to be within the jurisdiction or cognizance of the High Court of Admiralty, or of his majesty's courts of record at Westminster; anything in any act or acts of Parliament to the contrary notwithstanding." See also the 53 Geo. III. c. 87, s. 6.

Jurisdiction of courts respecting questions of salvage.

Sect. 32. "That in every case in which any damage shall be done by any foreign ship or vessel to any British ship or vessel, barge, boat, or other craft, or any buoy or beacon, in any harbour, port, river, or creek, and it shall appear on a summary application, made to any judge of any of his majesty's courts of record at Westminster, or to the judge of the High Court of Admiralty respectively, that such damage or loss has probably been sustained or arisen by the misconduct or negligence of the master or mariners of such foreign ship or vessel, then and in such case it shall be lawful for such judge to cause such foreign ship or vessel, being in any harbour, port, river, or creek, to be arrested and detained, until the master, or owner, or consignee, or some

In case of damage done by a foreign vessel in harbour, &c., judge may cause vessel to be arrested until owners, &c., undertake to appear and be defendant in any action.

Sect. 33. "That all penalties and forfeitures above the sum of 20*l*., or which by this act, or by an act passed in the present session of Parliament, intitled, 'An Act to continue and amend certain Acts for preventing the various Frauds and Depredations committed on Merchants, Ship-Owners, and Underwriters, by Boatmen and others, within the Jurisdiction of the Cinque-Ports, or any or either of them, or by this act, are made to be recoverable by action or suit, shall and may be sued for and recovered in any of his majesty's courts of record at Westminster." See also the 53 Geo. III. c. 87. s. 8.

Sect. 34. The act is not to extend so as to take away, abridge, hinder, prejudice, or impeach any grant, liberties, franchises, and privileges heretofore granted to and vested in the corporation of the Trinity House of Kingston-upon-Hull, or in the commissioners acting under the provisions of any act relating to the adjustment of salvage for anchors, cables, and other ships' materials found in the river Humber, or in the masters, wardens, and brethren of the Trinity Houses of Newcastle-upon-Tyne and Scarborough respectively. See also the 49 Geo. III. c. 122. s. 29.

The 49 Geo. III. c. 122, s. 28, contains a similar saving for the Trinity House of Deptford Strond, which is not repeated in the 1 & 2 Geo. IV. c. 75.

See also the 49 Geo. III. c. 122, s. 30.

Sect. 36. The act is not to extend to Scotland and Ireland. See also the 49 Geo. III. c. 122, s. 31.

Sect. 37. " And whereas it is expedient that the like means of conclusively adjusting and recovering the quantum of the monies or gratuities to be paid to the said several persons acting or being employed in the salvage of any ship or vessel, or the materials or stores belonging thereto, or goods or persons on board thereof, should subsist, and be by law applicable in cases where the salvors shall have acted under and by the employment and authority of any magistrate, or of the commander or other superior officers, mariners, or owners of any ship or vessel in distress, as are now by law provided for adjusting the quantum of such monies or gratuities which shall have become due in cases where application shall have been first made to the officers of the customs, or other the officer or officers in that behalf named and appointed in and by a certain act made in the twelfth year of the reign of Queen Anne, intituled, ' An Act for preserving all such Ships and Goods thereof which shall happen to be forced on Shore or stranded upon the Coasts of this Kingdom, or any other of her Majesty's Dominions,' and where such assistance shall thereupon have been rendered, in pursuance of the provision of that statute; ' be it therefore enacted, that all and every the means which in virtue of the said last-mentioned act subsist, and may now be by law applied for the conclusively adjusting, and for the recovering of the quantum of the monies or gratuities to be paid to the several persons acting or being employed in the salvage of any ship or vessel, or the materials or stores belonging thereto, or goods, in cases where application shall have been first made pursuant to the said act, to officers of the customs, or other the officer or officers in that behalf mentioned, and assistance shall have been thereupon rendered and had, in pursuance of the provisions of the said act, shall be by law appli-

(a) See the 7 & 8 Geo. IV, c. 76, *post*.

cable and available, in like manner, to all intents and purposes, in cases where the salvors shall have acted under and by the employment and authority of any magistrate, or of the commander or other superior officers, mariners, or owners of any ship or vessel in distress, although no such application shall have been made to, nor any authority or assistance derived from, any officer of the customs, or other the officer or officers in the said statute in that behalf mentioned; and thereupon, upon payment or tender and refusal of the quantum of the monies or gratuities to be paid to the several persons who shall have acted or been employed in such salvage, or in case such payment or tender cannot be made, on security being given for the true payment thereof, to the satisfaction of the justices who shall have adjusted such quantum or gratuities, it shall not be lawful for any officer of the customs, or other person or persons having the possession or custody of such ship, vessel, materials, stores, or goods, any longer to retain the possession or custody of the same, or any part thereof, by reason or pretence of any claim or right to a compensation or gratuity of such salvage as aforesaid, or for having acted or been employed therein." See also the 49 Geo. III. c. 122, s. 32.

Sect. 38. "That in all cases it shall be lawful for the owner or owners, or if the owner or owners refuse, for the salvors, to sell so much of the property saved as will be sufficient to defray the salvage adjudged, and all expenses attending the same, and such other reasonable charges and expenses respecting the said property as shall be allowed by the High Court of Admiralty, or by the justices acting in execution of the provisions of this act; and that a production of an order or decree from the High Court of Admiralty, or of an award made by the justices acting in execution of the provisions of this act, the commissioners of the customs and excise shall be empowered and required, and they are hereby empowered and required, to allow the sale of such goods aforesaid, free from the payment of all duties: provided nevertheless, that in all cases in which they may think it advisable, it shall be lawful for the commissioners of the customs and excise to refer any such award, which may be produced to them from the justices acting in execution of the provisions of this act, to the judgment and revision of the High Court of Admiralty."

Property saved may be sold, so far as necessary to defray the expense of salvage.

† Sic in act.

Award may be referred by customs or excise to Court of Admiralty.

Sect. 39 declares the act to be a public act.

Public act.

"SCHEDULE to which this Act refers.

"On the day of , in the year of our Lord , before me, , at , in the county of , [ship's name], A. B. [here insert the names of the salvors against, and name the stores and other articles (*id est*), anchors and cables, &c., as the case may be], certain goods and merchandizes lately found and taken possession of, and belonging to the said ship, whereof was master, and also against the said master, and the owners [or, if the owners alone appear by themselves or agents, then leave out the master's name] of the said goods and merchandize, in a cause of salvage [master's name], on which day appeared personally , of , and , of , who produced themselves as sureties for the said , the master, and for the owners of the said goods and merchandize; and, submitting themselves to the jurisdiction of the High Court of Admiralty of England, bound themselves, their heirs, executors, and administrators, for the master and owners of the said goods and merchandize, in the sum of , of lawful money of Great Britain, unto the said , to answer such salvage and expenses, or the value of the goods [as the case may be], as shall be hereinafter decreed by the said court, according to the tenor of the act in that case made and provided; and, unless they shall so do, they hereby consent that execution shall issue forth against them, their heirs, executors, and administrators' goods and chattels, wherever the same shall be found, to the value of the sum above mentioned.

"This bail was duly taken, acknowledged, and received, at the time and place above written, before me, the undersigned commissioner; and I do believe and consider the persons above mentioned sufficient security for the said sum of ."

See, also, a similar form in the schedule to the 49 Geo. III. c. 122.

By the 12 Anne, st. 2, c. 18, s. 5, "if any person or persons shall make, or be assisting in the making any hole in the bottom, side, or any other part of any ship or vessel so in distress, as aforesaid, or shall steal any pump belonging to ships in distress.

1 & 2 Geo. 4, c. 76.

ing to any ship or vessel so in distress, as aforesaid, or shall be aiding or abetting in the stealing such pump, as aforesaid, or shall wilfully do anything tending to the immediate loss or destruction of such ship or vessel, such person or persons shall be, and are hereby made guilty of felony, without any benefit of his, her, or their clergy." See *Clergy. Benefit of*.

By the 26 Geo. II. c. 19, s. 5, if any person shall discover to any justice, magistrate, custom-house or excise officer, where any such goods are wrongfully bought, sold, or concealed, he shall be entitled to a reasonable reward, to be adjusted, in case of disagreement as to *quantum*, as the salvage is by the 12 Anne.

By the 12 Anne, st. 2, c. 18, s. 4, if goods be found on any person that were stolen or carried off from any ship so in distress, he shall immediately, on demand, deliver them up to the owner, or person authorized by the owner to receive the same, or, in default thereof, shall pay treble value, to be recovered in an action at law.

And, by sect. 7, if the officer of customs, or his deputy, by fraud or wilful neglect, abuse his trust, and be convicted thereof in due form of law, he or his deputy shall respectively forfeit treble damages, to be recovered in any action in any court of record, and shall be disabled from the same or any other employment relating to the customs.

Examination on oath.

By the 26 Geo. II. c. 19, s. 15, the officer of the customs who shall act in preserving any such vessel or her cargo, shall, as soon as conveniently may be, cause or procure all persons belonging to the vessel, and others who can give an account thereof, to be examined on oath before a justice, as to the name or description of the vessel, the names of the master, commander, chief officer, and owners, and of the owners of the cargo, and of the places from or to which the vessel was bound, and the occasion of the distress; which examination the justice shall take in writing, and shall deliver a copy thereof, together with a copy of the account of the goods, to the said officer of the customs, who shall forthwith transmit the same to the secretary of the Admiralty, who shall publish the same in the next London Gazette, or so much thereof as shall be necessary for the information of the persons interested or concerned therein.

Copy transmitted to secretary of Admiralty.

By the 12 Anne, st. 2, c. 18, s. 9, this shall not prejudice the right of any lords of manors, or others, lawfully claiming wreck, or goods *flotsam, jetsam, or ligan*.

Salvage.

By the 3 Geo. I. c. 13, s. 6, and several subsequent acts, the lord warden of the Cinque-Ports was empowered to appoint commissioners for adjusting differences respecting salvage.

1 & 2 Geo. 4, c. 76.

By the 1 & 2 Geo. IV. c. 76, intituled, "An Act to continue and amend certain Acts for preventing the various Frauds and Depredations committed on Merchants, Ship-Owners, and Underwriters, by Boatmen and others, within the Jurisdiction of the Cinque-Ports; and also for remedying certain Defects relative to the Adjustment of Salvage, under a Statute made in the Twelfth Year of the Reign of her late Majesty, Queen Anne;" after reciting that, "whereas, by an act passed in the forty-eighth year of his late majesty, King George the Third, intituled, 'An Act for preventing Frauds and Depredations committed on Merchants, Ship-Owners, and Underwriters, by Boatmen and others, within the Jurisdiction of the Cinque-Ports; and also for remedying certain Defects relative to the Adjustment of Salvage, under a Statute made in the Twelfth Year of her late Majesty, Queen Anne,' which act was to continue in force for seven years, and from thence to the end of the next session of Parliament; and whereas, by an act passed in the fifty-third year of his late majesty, King George the Third, the said above-recited act, except so far as the same was altered, was further continued in force for seven years from the passing of the said act, and from thence to the end of the next session of Parliament, and no longer; and whereas it is expedient that the said recited acts should be further continued, except so far as the same are altered by this act:" it is enacted, "that it shall and may be lawful for the lord warden of the Cinque-Ports, for the time being, to nominate and appoint, by any instrument or instruments under his hand

43 Geo. 3, c. 136.

53 Geo. 3, c. 87.

Lord warden to appoint commissioners to determine differences relative to salvage.

and seal, three or more substantial persons in each of the Cinque-Ports, two ancient towns, and their members, to adjust and determine any difference relative to salvage (which may arise) between the master of any vessel and the person or persons bringing such cables and anchors ashore; and in case any ship or vessel shall be either forced or cut from her cables and anchors, by extremity of weather, or by any other accident whatever, and leave the same in any roadstead, or other place within the jurisdiction of the Cinque-Ports, two ancient towns, and their members, and the salvage cannot be adjusted between the persons concerned, then the same shall be determined by any three or more of the said persons so to be appointed as aforesaid, within the space of twenty-four hours after such difference shall be referred to them for their determination thereof, any usage or custom to the contrary in anywise notwithstanding: provided always, that such commissioners shall, immediately after their nomination, proceed to elect some fit and proper person, who shall be a notary or master extraordinary in chancery, as their secretary or register, except to the port of Dover, where the register for the time being of the Court of Admiralty of the Cinque-Ports shall be the register; and which secretary, or register, shall enter in a book, to be kept for that purpose, all the proceedings of such commissioners, and also a copy of the awards which they shall from time to time make; but such election of secretaries, or registers, shall be subject to the approbation of the lord warden for the time being." See also the 48 Geo. III. c. 130, s. 1.

Sect. 2. "That it shall be lawful for the said commissioners, to be appointed as aforesaid, to decide on all claims and demands whatever, which shall or may be made by pilots, hovellers, boatmen, and other persons, for services of any sort or description rendered to any ship or vessel, as well for carrying off from the shore to such ship or vessel, any anchors, cables, or other stores from any part or port of the coast of Kent, Sussex, Essex, or the Isle of Thanet, within the jurisdiction aforesaid, as for the conducting and conveying such ships and vessels from the Downs, and other bays and roadsteads on the coast of Kent, Sussex, and Essex, and the Island of Thanet, or from the sea or any other place, to Ramsgate, Dover, or any other harbour, port, or place, on the said coasts, within the jurisdiction aforesaid, or for the saving and preserving, within the jurisdiction aforesaid, any goods or merchandize wrecked, stranded, or cast away from any ship or vessel, the master or owners thereof, or their agents, being present at the place where the commissioners shall be sitting; and that the said commissioners shall have full power and authority to hear and determine on all cases whatever of services rendered by pilots, boatmen, and others, to shipping within the jurisdiction aforesaid, whether such ships or vessels shall be in distress or not; and that it shall be lawful for the said commissioners, whenever they see occasion, to examine the parties or their witnesses upon their oath, which oaths shall and may be administered by the said secretary or register." See also the 48 Geo. III. c. 130, s. 2.

Sect. 3. "That it shall be lawful for the commissioners so to be appointed, and their secretary or register as aforesaid, who shall decide on any such claims or demands as aforesaid, to demand and receive of and from the owners of such ships or vessels, or the proprietors of any such goods or merchandizes, against whom any pilot, boatman, or other person, shall make any claim or demand for services of any sort rendered to such ships or vessels, or for the sole saving and preserving any goods or merchandizes wrecked, stranded, or cast away, within the jurisdiction aforesaid; and such owners and proprietors are hereby required to pay to them such fee or reward for deciding on every such claim and demand, as shall be adjudged to them in that behalf by the lord warden of the Cinque-Ports for the time being: provided always, that no person to be appointed a commissioner by virtue of this act shall have power or authority to act in any other port or place than that in which he is resident, or from which his usual place of residence is not distant more than one mile; and that before such commissioners shall in any case proceed to act, they shall severally take the following oath before a magistrate or a commissioner of the Court of King's Bench or Common Pleas, or a master extraordinary in Chancery:—"See also the 48 Geo. III. c. 130, ss. 3, 4—(videlicet)

"I, A. B., do swear, that I have not, neither will I, in any way, directly or indi-

1 & 2 Geo. 4. c. 74

Who are to appoint a secretary, subject to approbation of lord warden.

Prize dings entered.

Power to commissioners to settle all differences which may arise within the limits herein mentioned.

Commissioners and secretary to be paid by owners, &c.
Fees as allowed by the lord warden.

No commissioner to act out of place of residence.

Commissioners to take oath.

1 & 2 Geo. 4, c. 76. *rectly, take or receive any fee, emolument, or reward, from any of the parties whose interests are referred to my decision (save and except such fee or reward as shall be allowed by the lord warden to be paid to me by the ship-owners or proprietors of the cargo, or their agents); and that I will not accept or receive any fee whatever from the persons claiming reward or salvage; but that I will decide according to the best of my judgment, on the evidence to be brought before me, without favour or affection to either party.*
So help me God."

Appeal to High Court of Admiralty, or Admiralty of the Cinque-Ports; but ship to be liberated, on bail in double amount of award.

Sect. 4. "That in case the party or parties so claiming to be entitled to salvage or compensation for services rendered as aforesaid, or the party or parties who are to pay the same, or their agents, shall be dissatisfied with such award and decision of the commissioners, it shall and may be lawful for either of them respectively, within eight days after such award is made, but not afterwards, to declare to the commissioners his or their desire of obtaining the judgment of some competent Court of Admiralty respecting the said salvage or compensation as aforesaid, and thereupon such party or parties shall forthwith be required by the commissioners to declare whether he or they will proceed in the Court of Admiralty of the Cinque-Ports, or the High Court of Admiralty of England, and he or they shall so proceed within twenty days from the date of such award, by taking out a monition against the adverse party; but in such case the said commissioners are hereby empowered and required to permit the said ship and her cargo, notwithstanding such declaration and proceeding, to depart on her voyage, or to deliver to the owners and proprietors, or their agents, any goods or merchandizes respecting which any claim for salvage shall be made upon the owners or proprietors of the same, or their agents, giving good and sufficient bail in double the amount of the sum awarded; and which bail the said commissioners, or any of them, are and is hereby authorized to take and certify according to the form contained in the schedule hereunto annexed, and to transmit the same without delay to the Court of Admiralty, in which the intention of proceeding shall be so declared, together with a true certificate in writing of the gross value of the whole ship and cargo, or other goods and merchandizes respecting which salvage shall be claimed, and also an official copy of such proceedings and awards, certified by the said secretary or register, and the same shall be admitted by such Court of Admiralty as evidence in the cause." See also the 48 Geo. III. c. 130, s. 5.

Bail to be taken and certified according to schedule annexed.

Appeal conclusive.

Sect. 5. "Provided, that on an appeal so as aforesaid being made to the Court of Admiralty of the Cinque-Ports, or to the High Court of Admiralty, the same shall be taken and held to be final, and no ulterior appeal from sentence of the Court of Admiralty of the Cinque-Ports, or from the High Court of Admiralty, shall lie to the king in Chancery."

Cutting away or defacing buoy-ropes, &c. felony.

Sect. 6. "That if any person or persons shall wilfully cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall do or commit any act with intent and design to cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other way injure or conceal any buoy, buoy-rope, or mark, belonging to any ship or vessel, or which may be attached to any anchor or cable belonging to any ship or vessel whatever, within the jurisdiction aforesaid, with intent thereby to defraud or injure any person or persons whatsoever, or body corporate, such person or persons so offending shall, on being convicted of such offence, be deemed and adjudged guilty of felony, and shall be liable to be transported for any period not exceeding fourteen years." See also the 48 Geo. III. c. 130, s. 6.

Anchors, &c. found within jurisdiction, to be deposited as here is mentioned, &c. or the persons having them in possession adjudged guilty of receiving stolen goods.

Sect. 7. "That all anchors, cables, buoys, ropes, or other ship's stores or materials, or any goods or merchandizes of any sort or description whatever, which may have been parted with, cut from, or left by any ship or vessel in the Downs, or elsewhere, within the jurisdiction aforesaid, whether the same shall be in distress or otherwise, and which shall have been weighed, swept for, or taken possession of by any pilots, boatmen, hovellers, or other person or persons, shall be by them delivered either at Ramsgate, Deal, or Dover, Harwich, Brightlingsea, or Wivenhoe, six public places of deposit declared by this act for the reception of all such articles, or such other places as shall be declared by the lord warden, in the same state in which they are found, to the serjeant or serjeants of the Admiralty of the Cinque-Ports aforesaid, their deputy or depu-

ties, or such other person as he shall authorize to receive the same; but if any such articles so found, weighed, swept for, or taken possession of, shall not be so delivered immediately, or duly reported to such serjeant or serjeants, or their deputies, on the finding thereof, and shall afterwards be discovered in the possession, custody, or power of such pilots, boatmen, hovellers, or other person or persons, he, she, or they shall, on conviction, be adjudged and deemed guilty of receiving goods knowing them to have been stolen, and shall suffer the like punishment as if the same had been stolen on shore?" See also the 48 Geo. III. c. 130, s. 7.

1 & 2 Geo. 4, c. 76.

Sect. 8. "That all merchandize, materials of any sort, or marine stores of every description, whether belonging to his majesty, or to any British subjects or foreigners, which may be preserved from any ship or vessel stranded, deserted by her crew, or wrecked, either on shore or on the Goodwin or any other sand or shoal, or any part of the main land, or any port or place within the jurisdiction aforesaid, shall be landed and delivered at one of the six places of deposit, belonging to the lord warden's deputies at Ramsgate, or Deal, or Dover, Harwich, Brightlersea, or Wivenhoe, or such other place as shall be declared and appointed by the said lord warden for that purpose, which ever shall be most convenient or contiguous to the place where the loss occurs; and that if any person or persons who shall have preserved or taken possession of any such merchandize or marine stores within the jurisdiction aforesaid, shall sell, dispose of, or otherwise make away with the same, or shall in any manner conceal, deface, take out, or obliterate the marks or numbers thereon, or alter the same in any manner, with intent thereby directly or indirectly to prevent the discovery and identity of such articles by the owner or owners thereof, such person or persons shall be deemed and adjudged guilty of felony." The 48 Geo. III. c. 130, s. 8, has a similar enactment, except as to Harwich, Brightlersea, and Wivenhoe.

Wrecked merchandize and ships' stores to be also deposited in like manner.

If sold, or marks defaced by the salvors,

Felony.

Sect. 9. "Provided, that nothing herein contained shall extend, or be construed to extend, to the preventing or restraining the serjeant's deputies, or any other officer of the lord warden, from seizing all such anchors, cables, buoys, buoy-ropes, or other ship's stores or materials as aforesaid, and likewise all such merchandize and marine stores as aforesaid, which he or they shall find concealed, or attempted to be concealed, within the jurisdiction aforesaid, or which he or they shall find in the possession of any person or persons who shall be conveying, or in the act of preparing to convey, the same out of the said jurisdiction, or from any place where the same shall have been landed within the said jurisdiction, to any other place within the same, other than to one of the said public places of deposit aforesaid; but it shall be lawful in all such cases, for all and singular the officers aforesaid, to seize the same as well on shore as at sea, within the said jurisdiction, and to take and carry the same to one of the said public places of deposit, anything in this or in any other act, law, custom, or usage to the contrary notwithstanding." See also the 48 Geo. III. c. 130, s. 9.

Officers of lord warden may seize anchors, stores, &c. concealed within their jurisdiction, &c.;

t. to be deposited as aforesaid.

Sect. 10. "That if any person or persons, within the jurisdiction aforesaid, shall knowingly and with intent to defraud and injure the true owner or owners thereof, purchase or receive any anchors, cables, ropes, or other ship's stores or materials of any description whatever, or any merchandize or lading which may have been taken up, weighed, swept for, or taken possession of, whether the same shall have belonged to any ship or vessel in distress or otherwise, or whether the same shall have been preserved from any wreck within the jurisdiction aforesaid, such person or persons shall on conviction thereof be deemed guilty of receiving stolen goods, knowing the same to be stolen, as if the same had been stolen on shore, and suffer the like punishment as for a misdemeanor at the common law, and be also liable to be transported for seven years, in the discretion of the court before whom he, she, or they shall be tried." See also the 48 Geo. III. c. 130, s. 10.

Receivers subject to same punishment as though goods had been stolen on shore.

Sect. 11. "And whereas it frequently happens, that anchors, cables, and other marine stores, or merchandize, which have been weighed, swept for, or taken possession of, within the jurisdiction aforesaid, are, for fraudulent purposes, carried away to Rochester, London, Portsmouth, and other places not within the jurisdiction aforesaid, and the officers of the lord warden cannot, by

Lord warden's officers authorized to seize anchors, &c. taken up within the limits of the Cinque-Ports, though removed out of such limits.

1 & 2 Geo. 4, c. 76.

reason of such removal, recover the same:" it is enacted and declared, that "it shall be lawful for the serjeant or serjeants of the Admiralty of the Cinque-Ports, deputies, or any other officer of the lord warden, whenever the case shall happen, to seize such anchor, cable, or other marine stores or merchandize, out of the jurisdiction aforesaid, and there to take and carry away the same to some one of the aforesaid public places of deposit, or to place the same in a place of security, till proceedings shall be instituted against the same, either in the Court of Admiralty of the Cinque-Ports, or in the High Court of Admiralty." See also the 48 Geo. III. c. 130, s. 11. (a)

Dealers in ships' stores to have their names painted on their storehouses.

Penalty.

No cables, &c. to be cut up without permit from one of lord warden's deputies; to be granted upon affidavit stating as herein mentioned.

Affidavit recited at length in permit.

Dealers to keep an account of the marine stores bought by them.

To advertise before cutting up cable or cordage.

Sect. 12. "That all persons who shall trade or deal in buying and selling anchors, cables, sails, old junk, or paper stuff, old iron, or marine stores of any kind or description, within the jurisdiction aforesaid, shall have their names, with the words 'Dealer in Marine Stores,' painted distinctly in letters of not less than six inches in length, upon the front of all their storehouses, warehouses, and other depôts for such goods; and in default of their so doing they shall, on conviction before any person or persons duly authorized to act as a magistrate or magistrates within the limits aforesaid, forfeit and pay any sum not exceeding 20*l.*, nor less than 10*l.*, one half of which penalties shall be paid to the informer, and the other moiety to the poor of the parish where such offence shall be committed; and further, that it shall not be lawful for such dealers or traders to cut up any cables or part of the same, or to uncant, untwine, or unlay the same, or cordage of any description, into junk or paper stuff, nor any wounding, wounding, or worming, or any cable matting on the same, or on rigging, on any pretence whatsoever, without first obtaining a permit from the lord warden's deputies, or one of them, which permit shall not be granted unless an affidavit shall have been first made before some one of the persons duly authorized to act as magistrates within the limits of the Cinque-Ports, two ancient towns, and their members, and shall have been delivered to and left with the person granting such permit, in which affidavit there shall be sworn that the cable and cordage, so intended to be cut up, had been purchased fairly and without fraud by the party so intending to cut up the same, and without any knowledge or suspicion on his or her part that the same had been or were dishonestly come by; and in which affidavit shall also be specified the particular quality and description of such cable or cordage, and the name or names of the seller or sellers thereof, which affidavit shall be recited and set forth at length in the permit thereupon granted." See also the 48 Geo. III. c. 130, s. 13.

Sect. 13. "That all dealers in such marine stores as aforesaid, within the limits of the Cinque-Ports, two ancient towns, and their members, shall keep a book or books, fairly written, in which entries shall be from time to time regularly made of all such marine stores as shall be by them from time to time bought, containing a true account and description of the times when the same were so respectively bought by them, and of the names and places of abode of the respective sellers thereof; and also, that before the party who shall have obtained such permit for the cutting up of any such cable or cordage (as hereinbefore required to be obtained), shall proceed to cut up the same by virtue thereof, there shall be published, by the space of one week at least before the

(a) By the 48 Geo. III. c. 130, s. 12, "if any pilot, boatman, or other person or persons, within the jurisdiction aforesaid, shall at any time counsel, instruct, direct, advise, or procure any master or other person on board of any ship or vessel, within the jurisdiction aforesaid, whether such ship be at the time in distress or otherwise, to cut such ship's or vessel's cable or buoy-rope, or to do any other act whatever which shall or may tend to the destruction or wreck of such ship or vessel, with intent thereby to prejudice any owner or owners of such ship or vessel,

or any owner or owners of any goods loaden on board the same, or any person or persons, body politic or corporate, that hath or have underwritten, or shall underwrite, any policy or policies of insurance upon such ship or vessel or on the freight thereof, or upon any goods loaden on board the same, the person or persons offending therein, being thereof lawfully convicted, shall be deemed and adjudged guilty of felony, and be liable to be transported for any period of time not exceeding fourteen years."

time of cutting up of the same, one or more advertisements in some public newspaper printed within the counties of Kent, Sussex, and Essex, and near to the usual residence or place of abode of such party, notifying that such party had obtained such permit for the purpose of cutting up such quantity of cable or cordage, and of such kind and quality as therein described, a true copy of which permit shall be inserted in such advertisement; whereupon it shall be lawful for all and every person or persons who may have just cause to suspect, and shall have verified upon oath the fact of such his, her, or their suspicion before any of the persons duly authorized to act as magistrates within the limits aforesaid, by warrant of such magistrate to him or them for that purpose thereupon granted, to require of and from any such dealer who shall have so advertised, and shall be so sworn to be suspected as aforesaid, the production and examination of the book or books of entries hereby required by him to be kept, and to inspect and examine the cable or cordage described in such permit; and in case any such dealer shall, when so thereunto required as aforesaid, neglect or refuse to produce to the person named in such warrant as the person on whose oath the same had been obtained, the book or books containing the entries of such dealer so required to be made therein as aforesaid, or shall neglect to keep any such book or books in which entries containing accounts of the several particulars hereinbefore required to be entered, shall be made, or to permit such inspection and examination as aforesaid, or shall, after obtaining such permit for the cutting up of any cable or cordage, and before the cutting up of the same, neglect to publish such one or more advertisements relative thereto, as is hereinbefore directed and required to be published, the dealer or dealers so offending in all or any of the particulars hereinbefore mentioned, shall forfeit and pay for every such offence, being his, her, or their first offence, any sum not exceeding 20*l.*, nor less than 10*l.*; and for every second and further offence, any sum not exceeding 50*l.*, nor less than 30*l.*; one-half of which penalties shall, on conviction before any of such magistrates duly authorized to act within the limits aforesaid, be paid to the informer, and the other half to the poor of the parish in which such offence shall be committed; and in case any of the penalties by this act imposed shall not be paid, with the charges incident to the conviction, immediately upon such conviction, the same shall and may be levied by the warrant of such magistrate as aforesaid, by distress upon the goods and chattels of every such offender or offenders; and in case there shall be no sufficient distress, then every such offender or offenders shall and may be committed, by such magistrate as aforesaid, to the common gaol within the limits aforesaid, in the case of any first offence, for the space of three months, and in the case of any second or further offence, for the space of six months, unless the said penalty and charges shall be sooner paid." See also the 48 Geo. III. c. 130, s. 14.

Sect. 14. "That the inhabitants of any parish, township, or place, within the jurisdiction aforesaid, shall be deemed and taken to be competent witnesses, for the purpose of proving the commission of any offence against this act, within the limits of such parish, township, or place, notwithstanding the penalty incurred by such offence, or any part thereof, is or may be given or applicable to the poor of such parish, township, place, or otherwise, for benefit or use, or in aid or exoneration of such parish, township, or place." See also the 48 Geo. III. c. 130, s. 15.

Sect. 15. "That the lord warden of the Cinque-Ports for the time being, and the lieutenant of Dover Castle for the time being, and the deputy wardens of the Cinque-Ports for the time being, and the judge official and commissary of the Court of Admiralty of the Cinque-Ports, two ancient towns, and the members thereof for the time being, and any other officer who shall be specially appointed by the lord warden, and all and every of them, shall and may execute, perform, and do, within the jurisdiction aforesaid, all the acts, matters, and things contained in this act, in like manner, to all intents and purposes, as any magistrate or magistrates, or any commissioner or commissioners to be appointed by virtue of this act, is and are authorized to execute, perform, and do the same." See also the 48 Geo. III. c. 130, s. 16.

Sect. 16. "And whereas, by a certain act passed in the twenty-eighth year of

1 & 2 Geo. 4, c. 76.

Persons therein described may demand inspection of books.

Refusing to produce the book of entries, or neglecting to give notice before cutting up cable or cordage, &c.

Penalty.

First offence.

Further offence.

Penalties, how to be levied.

Inhabitants competent witnesses.

Lord warden and his deputies, judge official, &c. to have like power as Justices of peace or commissioners under this act.

1 & 2 Geo. 4, c. 76.

Manner of issuing
commissions for
the punishment
of offences,
28 Hen. 8, c. 15,
s. 5, 6.

Proviso for rights
of Admiralty
Court, and of Ad-
miralty of the
Cinque Ports.

Proviso for rights
of the Trinity
House.

Boundaries of ju-
risdiction of lord
warden of the
Cinque-Ports.

the reign of King Henry the Eighth, intituled 'For Pirates,' it is among other things enacted to the effect following, that whenever any commission for the punishment of certain offences therein named, shall be directed or sent to any place within the jurisdiction of the five ports, that then every such commission shall be directed unto the lord warden of the said port for the time being, or to his deputy, or unto three or four such persons as the lord chancellor for the time being shall name and appoint; and whereas by the said act it is farther enacted to the effect following, that every inquisition and trial to be had by virtue of such commission shall be made and had by the inhabitants of the said five ports, or the members of the same; and whereas of a long time past no such commission has been sent to any place within the jurisdiction of the Cinque-Ports: be it enacted, for the more certain and speedy administration of justice, that as often as his majesty shall direct a commission, according to the provisions of the aforesaid act, to the admiral or admirals, or his or their lieutenant deputy and deputies, it shall and may be lawful for his majesty, on the application of the lord warden of the Cinque-Ports, to direct such commission jointly to the admiral or admirals, or his or their lieutenant deputy and deputies, and also to the lord warden of the Cinque-Ports for the time being, and to his deputy; and the commissioners who shall sit by virtue of such commission, so jointly addressed, to whatever shire or place in the realm the same shall be limited, shall have full power and authority to inquire into, try, and determine all offences named in the said act, or in any other act relating to proceedings under such commission, by the oaths of twelve good and lawful inhabitants in the shire limited in the said commission, whether the said offences shall have been committed within the jurisdictions of the lord admiral of England, or of the lord warden of the Cinque-Ports; and all and every trial, conviction, judgment, and proceeding whatsoever under such commission, shall be as good and effectual to all intents and purposes in law, and shall be followed by the same consequences to the offender or offenders, as if the same were had by virtue of any separate commission to be issued under the provisions of the aforesaid act of King Henry the Eighth: provided always, and it is hereby further declared, that this act, or anything herein contained, shall not extend, or be construed to extend, to the taking away, abridging, prejudicing, or impeaching, in any manner whatever, the jurisdiction of the High Court of Admiralty of England, or the jurisdiction of the Admiralty Court of the Cinque-Ports, two ancient towns and their members; but that it shall and may be lawful for the said courts respectively, and the judge or judges thereof for the time being, to have, use, exercise, and enjoy jurisdiction over all such matters, rights, and offences, as they have heretofore had, used, exercised, and enjoyed, as fully and effectually, to all intents and purposes whatever, as if this act had not been made; anything hereinbefore contained to the contrary in anywise notwithstanding." See also the 48 Geo. III. c. 130, ss. 17, 18.

Sect. 17. "Provided, that this act, or anything herein contained, shall not extend or be construed to extend to the taking away, abridging, hindering, prejudicing, or impeaching of any grant, liberties, franchises, and privileges heretofore granted to and vested in the corporation of the Trinity House of Deptford Strond; but that the said corporation shall hold and enjoy the same as fully and effectually, to all intents and purposes, as they might have done in case this act had never been made; anything hereinbefore contained to the contrary thereof in anywise notwithstanding." See also the 48 Geo. III. c. 130, s. 19.

Sect. 18. "And whereas doubts have arisen as to the exact boundaries of the jurisdiction of the lord high admiral and the lord warden of the Cinque-Ports, and it is highly expedient for the purposes of this act that the same should be clearly set forth: now it is hereby declared and enacted, that the boundaries of the jurisdiction of the lord warden of the Cinque-Ports, in regard to any matter or thing contained in this act, shall be and shall be deemed and taken to be as follows (that is to say): from a point to the westward of Seaford, in the county of Sussex, called Red Cliff, including the same; thence passing in a line one mile without the sand or shoal called the Horse of Willingdon, and continuing the same distance without the ridge and new shoals; and thence in a line within five miles of Cape Grisnez, on the coast of France; thence round the shoal called the Overfalls, two miles distant from the same; thence in a line without, and the same

distance along the eastern side of the Galloper Sand, until the north end thereof bears west north west, true bearing, from the west north west bearing of the Galloper, it runs in a direct line across the shoal called the Thwart Middle, till it reaches the shore underneath the Maze Tower; from thence following in a line of the shore up to Saint Orsyth, in the county of Essex, and following the course of the shore up to the river Coln, to the landing-place nearest Brightlingsea; from thence in a direct line to Shoe Bacon; from thence to the point of Shellness, on the Isle of Shippey; and from thence across the waters to Feversham; and from thence following the line of coast round the North and South Forelands, and Beachy Head, till it reaches the said Red Cliff, including all the waters, creeks, and havens, comprehended between them: provided always, and it is hereby declared, that nothing in this act contained shall extend, or be construed to extend, to enlarge or abridge the local limits of the ancient jurisdiction, rights, and privileges of the lord high admiral of England or the lord warden or admiral of the Cinque-Ports respectively, or their respective representatives; but that the same shall remain according to ancient usage, and that the description hereinbefore contained shall only be deemed applicable to the purposes of this act; anything herein contained to the contrary notwithstanding." See also the 48 Geo. III. c. 130, s. 20.

Sect. 19. "And whereas it is expedient that the like means of conclusively adjusting and recovering the quantum of the monies or gratuities to be paid to the several persons acting or being employed in the salvage of any ship, vessel, or goods, should subsist and be by law applicable in cases where the salvors shall have acted under and by the mere employment and authority of the commander or other superior officer, mariners, or owners of any ship or vessel in distress, as are now by law provided for adjusting the quantum of such monies or gratuities which shall have become due in cases where application shall have been first made to officers of the customs, or other the officer or officers in that behalf named and appointed in and by a certain statute made in the twelfth year of the reign of our late sovereign lady, Queen Anne, intituled, 'An Act for preserving of all such Ships and Goods thereof which shall happen to be forced on Shore or stranded upon the Coasts of this Kingdom, or any other of her Majesty's Dominions,' and where assistance shall have been thereupon rendered in pursuance of the provisions of that statute: be it therefore enacted and declared, that all and every the means which, in virtue of the statute last mentioned, subsist, and may now be by law applied, for the conclusively adjusting and for the recovering of the quantum of the monies or gratuities to be paid to the several persons acting or being employed in the salvage of any ship, vessel, or goods, in cases where application shall have been first made pursuant to that statute to officers of the customs, or other the officer or officers therein in that behalf mentioned, and assistance shall have been thereupon rendered and had in pursuance of the provisions of that statute, shall be by law applicable and available, in like manner, to all intents and purposes, in cases where the salvors shall have acted under and by the mere employment and authority of the commander or other superior officers, mariners, or owners of any ship or vessel in distress, although no such application shall have been made to, nor any authority or assistance derived from, any officers of the customs, or other the officer or officers in the said statute in that behalf mentioned; and that, upon payment or tender and refusal of the quantum of monies or gratuities to be paid to the several persons who shall have acted or been employed in such salvage, or in case such payment or tender cannot be made, or security being given for the due payment thereof, to the satisfaction of the commissioners who shall have adjusted such quantum of gratuities, it shall not be lawful for any officer of the customs, or other person or persons having the possession or custody of such ship, vessel, or goods, any longer to retain the possession or custody of the same, or any part thereof, by reason or pretence of any claim or right to a compensation or gratuity for such salvage as aforesaid, or for having acted or been employed therein." See also the 48 Geo. III. c. 130, s. 21. (a)

For the better adjustment and payment of salvage under 12 Anne, st. 2, c. 18.

(a) By the 48 Geo. III. c. 130, s. 22, cation made to and without any authority or assistance derived from any officer of the customs or other officer in

1 & 2 Geo. 4, c. 76.

Owners or salvors may sell so much of the property saved as will defray salvage.

Award may be referred by customs or excise to Court of Admiralty.

Proviso for jurisdiction of Cinque-Ports.

Public act.

Schedule.

Sect. 20. "That in all cases it shall be lawful for the owner or owners, or if the owner or owners refuse, for the salvors, to sell so much of the property saved as will be sufficient to defray the salvage adjudged, and all expenses attending the same, and such other reasonable charges and expenses respecting the said property, as shall be allowed by the High Court of Admiralty, or by the Court of Admiralty of the Cinque-Ports, or by the commissioners appointed under this act; and that, on the production of an order or decree from the High Court of Admiralty, or from the Court of Admiralty of the Cinque-Ports, or of an award made by the commissioners appointed under this act, the commissioners of customs and excise shall be empowered and required, and they are hereby empowered and required, to allow the sale of such goods as aforesaid, free from the payment of all duties: provided nevertheless, that in all cases in which they may think it advisable, it shall be lawful for the commissioners of the customs and excise to refer any such award which may be produced to them from the commissioners appointed under this act, to the judgment or revision of the High Court of Admiralty." The part of this section, however, as to the sale of goods duty free, to pay the expenses of salvage, &c., is repealed by the 6 Geo. IV. c. 105.

Sect. 21. "Provided, that nothing herein in this behalf contained shall extend, or be construed to extend, to affect or impeach the jurisdiction to be exercised within the Cinque-Ports, or to affect or abridge in any degree the jurisdiction or authority of the High Court of Admiralty."

Sect. 22 declares the act to be a public act.

"The SCHEDULE to which this Act refers."

<p>"On the _____ day of _____, in the year of our Lord before, &c., _____, at _____, in the county of _____."</p> <p>[Ships' Names.]</p> <p>"A. B. [here insert the name of the salvors] against the said ship _____, whereof _____ was master, her tackle, apparel, and furniture, and the goods, wares, and merchandizes on board the same; and also against the said _____, master, and the owners of the said ship and cargo [or, as the case may be, against certain goods and merchandizes lately laden on board the said ship, whereof _____ was master; and also against the said _____, master, and the owners (or, if the owners alone appear by themselves or agents, then leave out the master's name) of the said goods and merchandizes], in a cause of salvage."</p>	<p>[Masters' Names.]</p> <p>"On which day appeared personally W. X., of _____, and Y. Z., of _____, who produced themselves as sureties for the said _____, the master, and for the owners of the said ship and cargo [or, as the case may be], for the said _____, master and owners of the said goods and merchandizes; and, submitting themselves to the jurisdiction of the High Court of Admiralty of England [or, the Court of Admiralty for the Cinque-Ports, as the case may be], bound themselves, their heirs, executors, and administrators, for the said master and owners of the said ship and cargo [or as the case may be], for the said masters and owners, or, for the</p>
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the said act mentioned, and the commander or other superior officer, mariners, or owners of such ship or vessel so saved as aforesaid, or the merchant or other person whose goods shall be so saved, or their agents as aforesaid, shall disagree with such salvors, touching the quantum of the monies or gratuity deserved by any persons so employed as aforesaid, it shall be lawful for the commander of such ship or vessel so saved, or the owner of the goods, or merchant interested therein, or their agents, and for such salvors as aforesaid, to nominate three of the neighbouring justices of the peace to adjust the quantum of the monies or gratuities to be paid to such salvors; and in case the parties

shall not agree in such nomination, that then, on the application of any of the parties to any one neighbouring justice of the peace, the justice so applied to shall nominate two other neighbouring justices of the peace; and such three neighbouring justices shall and may thereupon, and they are hereby authorized and required, to adjust the quantum of the monies and gratuities to be paid to all and each of such salvors who shall disagree with such master, commanding officer, merchant, or owners, or their agents as aforesaid, touching the quantum of monies, or the gratuity to be paid to him or them respectively, for his or their having been employed and acted in such salvage as aforesaid."

owners of the said goods and merchandizes, in the sum of _____ pounds of lawful money of Great Britain, unto the said A. B., &c., to answer the salvage and expenses of the said ship and cargo [or as the case may be], on the said goods and merchandize, as shall hereafter be decreed by the said court, according to the tenor of the act in that behalf made and provided; and, unless they shall so do, they hereby consent that execution shall issue forth against them, their heirs, executors, and administrators, goods and chattels, wheresoever the same shall be found, to the value of the sum above mentioned.

"This bail was duly taken, acknowledged, and received, at the time and place above written, before me, the undersigned commissioner; and I do hereby further certify, that I do believe and consider the persons above mentioned sufficient security for the sum of _____ pounds.

W. X.

Y. Z."

By the 53 Geo. III. c. 87, the 48 Geo. III. c. 130, and 49 Geo. III. c. 122, except so far as the same are altered by this act, shall continue in force for seven years from the passing of this act, and from thence to the end of the then next session of Parliament, and no longer. And see, as to the further continuance and present force of this act, the 1 & 2 Geo. IV. c. 75, s. 1, *ante*, 1046.

By the 7 & 8 Geo. IV. c. 29, s. 18, it is enacted, "that if any person shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, every such offender, being convicted thereof, shall suffer death as a felon: provided always, that when articles of small value shall be stranded or cast on shore, and shall be stolen without circumstances of cruelty, outrage, or violence, it shall be lawful to prosecute and punish the offender as for simple larceny; and in either case the offender may be indicted and tried either in the county in which the offence shall have been committed, or in any county next adjoining."

Plundering any part of the tackle or cargo of a shipwrecked vessel.

Proviso.

See the general clauses of this act, title *Larceny*, Vol. III. p. 550.

Mr. Carrington observes, "It may be considered that the terms 'small value' are very indefinite, in so penal an enactment; but those words were taken from the latter of the two statutes above mentioned. However, it was there enacted, that persons who took articles of *small value*, &c. should be triable for *petty larceny*; which appears to have there limited the terms 'small value' to a value under twelve pence." *Car. C. L.* 299.

The prior statutes relative to this offence are repealed by the 7 & 8 Geo. IV. c. 27.

The 7 & 8 Geo. IV. c. 29, s. 19, also enacts, "that if any goods, merchandize, or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore, as aforesaid, shall, by virtue of a search-warrant, to be granted as hereinafter mentioned, be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being carried before a justice of the peace, shall not satisfy the justice that he came lawfully by the same, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof; and the offender, on conviction of such offence before the justice, shall forfeit and pay, over and above the value of the goods, merchandize, or articles, such sum of money, not exceeding 20*l.*, as to the justice shall seem meet."

Persons in possession of shipwrecked goods, not giving a satisfactory account.

By sect. 20, it is enacted, "that if any person shall offer or expose for sale any goods, merchandize, or articles whatsoever, which shall have been unlawfully taken, or reasonably suspected so to have been, from any ship or vessel in distress, or wrecked, stranded, or cast on shore, as aforesaid, in every such case any person to whom the same shall be offered for sale, or any officer of the customs or excise, or peace-officer, may lawfully seize the same, and shall, with all convenient speed, carry the same, or give notice of such seizure, to some justice of the peace; and if the person who shall have offered or exposed the same for sale, being duly summoned by such justice, shall not appear and satisfy the justice that he came lawfully by such goods, merchandize, or articles, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same; and the

If any person offers shipwrecked goods for sale, the goods may be seized, &c.

FORMS.

offender, on conviction of such offence by the justice, shall forfeit and pay, over and above the value of the goods, merchandize, or articles, such sum of money, not exceeding 20*l.*, as to the justice shall seem meet."

See the general clauses and mode of proceeding, *ante*, *Marriage*, Vol. III. p. 550 to 552.

Forms.

(No. 1.)

Commitment on 7 & 8 Geo. 4, c. 29, s. 18, for stealing from a wreck.

Commencement as usual, as *ante*, p. 71.] — on, &c., at, &c., [ten barrels, &c., according to the fact], belonging to a certain ship and vessel then and there in distress [or, wrecked, or stranded, or cast on shore], the property of A. B. [or, of a person or persons unknown], feloniously did plunder, steal, take, and carry away; against the form of the statute in that case made and provided. And you, the said keeper, &c. [as usual, to the end].

(No. 2.)

Indictment for a like offence.

— } The jurors for our lord the king upon their oath present, that, on, &c., at the parish of, &c., a certain ship and vessel called the [Hebe], the property of persons to the jurors aforesaid unknown, was in distress [and stranded], and that C. D., late of, &c., then and there, with force and arms, [ten barrels] and [ten planks of oak timber], of the value of [20*s.*], part of the said ship and vessel [or, twenty bales of cotton, of the value, to wit, of 20*l.*], the goods, chattels, merchandize, and effects of A. B. [or, of certain persons to the jurors aforesaid unknown], from the said ship and vessel so in distress [and stranded], as aforesaid, then and there feloniously did plunder, steal, take away, and destroy; against the form of the statute in such case made and provided, and against the peace of our said lord the king, his crown and dignity. [Add other counts as any doubts in the case may suggest, as, in the ownership of the goods or ship plundered, the nature of the distress the ship was in,—as, if wrecked, or stranded, or cast on shore.]

(No. 3.)

Search-warrant after goods plundered from a wreck, on 7 & 8 Geo. 4, c. 29, s. 19. (a)

— } To the Constable of
Whereas it appears to me, J. P., Esq., one of his majesty's justices of the peace in and for the said county, by the information on oath of A. B., of , in the county aforesaid, [labourer], in this behalf, that a certain ship was, on, &c., stranded and cast on shore [in distress or wrecked, stranded or cast on shore], on the sea-coast, in the county aforesaid; and that the following goods belonging to the said ship, to wit, , have since that time been by some person or persons unknown feloniously plundered, stolen, taken, and carried away, in the county aforesaid; and that the said A. B. hath reasonable cause to suspect, and doth suspect, that C. D., of , in the same county, [labourer], hath in his possession, or on his premises, and with his knowledge, the said goods, or part thereof. These are, therefore, in the name of our said lord the king, to authorize and require you, with necessary and proper assistance, to enter in the day-time into the dwelling-house and premises of the said C. D., at aforesaid, in the county aforesaid, and there diligently to search for the said goods; and if the same, or any part thereof, shall be found upon such search, that you bring the goods so found, and also the body of the said C. D., before me, or some other of his majesty's justices of the peace for the county aforesaid, to be disposed of and dealt with according to law. Given under my hand and seal, at , in the county aforesaid, this day of, &c.

J. P.

(No. 4.)

Order thereon that the goods be delivered up. (a)

— } To the Constable of
to wit, }
Whereas, by virtue of a certain warrant under the hand and seal of me, J. P., Esq.,

(a) See a form in Archbold's *Forms of Commitments and Convictions*.

one of his majesty's justices of the peace in and for the county aforesaid, authorizing and requiring you to enter into the dwelling-house and premises of C. D., at _____, in the county aforesaid, and there diligently to search for certain goods belonging to a certain ship, before then stranded and cast on shore [as in the warrant] on the sea-coast in the county aforesaid, and which had been feloniously plundered, taken, and carried away; and whereas certain of the said goods, being found by you in the said dwelling-house and premises of the said C. D., to wit, [state the articles found], the same, together with the said C. D., were thereupon then and there brought before me, the said J. P., as such justice as aforesaid; and it then appearing upon evidence before me, that the said goods were so in the dwelling-house and premises of the said C. D. with the knowledge of the said C. D., the said C. D. was thereupon then and there required by me, as such justice as aforesaid, to account for his possession of the said goods, but he hath not satisfied me that he came lawfully by the same: I do therefore order and direct you, the said constable, forthwith to deliver the said goods so found as aforesaid unto E. F., for the use and benefit of G. H., the rightful owner thereof. Given under my hand and seal, at _____, in the county aforesaid, this _____ day of, &c.

J. P.

(No. 5.)

_____ } Be it remembered, that, on, &c., at, &c., in the county of _____, C. D. Conviction
to wit. } is convicted before me, J. P., one of his majesty's justices of the peace for the said county, for that he, the said C. D., on, &c., at the parish of _____, in the county aforesaid, had in his possession [or, on his premises], at _____ aforesaid, and with his knowledge, [one bag of wool], of the value of _____ shillings, of the goods and merchandize belonging to a certain ship then lately before stranded and cast on shore on the sea-coast in the county aforesaid, the property of some person or persons unknown, and which said goods have been by some person or persons unknown feloniously plundered, stolen, taken, and carried away, whilst the said ship was so stranded and cast ashore, as aforesaid; and that, upon the said goods and merchandize being found in the possession [and upon the premises] of the said C. D., as aforesaid, by virtue of a certain search-warrant, and the said C. D. being carried before me, the said J. P., now here as such justice, as aforesaid, he, the said C. D., doth not show unto or satisfy me, the said J. P., that he came lawfully by the said goods and merchandize, but altogether faileth in so doing, against the form of the statute in that case made and provided: I, the said J. P., do therefore adjudge the said C. D., for his said offence, to forfeit and pay the sum of _____ pounds, over and above the value of the said [wool] so stolen, as aforesaid, and the further sum of _____ shillings, being the value of the said [wool], and also to pay the sum of _____ shillings * for costs; and, in default of immediate payment of the said sums, to be imprisoned in the _____, [and there kept to hard labour], for the space of (b) calendar months, unless the said sum shall be sooner paid. And I direct that the said sum of _____ pounds shall be paid to A. B., (c) of _____ aforesaid, in which the said offence was committed, to be by him applied according to the directions of the statute in that case made and provided; and that the said sum of _____ shillings shall be paid also to the said A. B., to be by him applied in like manner, the owner of the said [wool] being unknown; and I order that the said sum of _____ shillings for costs shall be paid to [the complainant]. Given under my hand and seal, the day and year first above mentioned. J. P.

* If time be given for the payment of the penalty, the conviction may be the same as the above to the *] for costs; and I order that the said sums shall be paid by the said C. D. on or before the _____ day of _____ next; and I direct that the said sum of _____ pounds shall be paid to A. B., &c. [as in the above form, to the end.]

(No. 6.)

_____ } To the Constable of _____
to wit. } Whereas it hath been complained unto me, J. P., Esq., one of his majesty's justices of the peace for the said county, that C. D., of, &c., on, &c., at _____, in the county aforesaid, did offer and expose for sale [twenty bales of cotton], of the value, to

Summons on 7 & 8 Geo. 4, c. 29, s. 22, for offering shipwrecked goods for sale.

(a) See a form in Archbold's Forms of Commitments and Convictions.

(b) See ante, Vol. III. p. 553.

(c) See ante, Vol. III. p. 553.

FORMS.

wit, of [100*l.*], which [are reasonably suspected to] have been before then unlawfully taken from a certain ship and vessel in distress [or, stranded and cast on shore]: these are therefore to require you forthwith to summon the said C. D. to appear before me, at _____, in the said county, on, &c., at the hour of, &c., of the same day, to answer to the said information and complaint, and to satisfy me that he hath come lawfully by the said goods, and to be further dealt with according to law. And be you then there to certify what you shall have done in the premises. Herein fail you not. Given under my hand and seal, this _____ day of, &c.

J. P.

(No. 7.)

Conviction thereon.

_____ } Be it remembered, that, on, &c., at, &c., C. D. is convicted before me, to wit. } J. P., one of his majesty's justices of the peace for the said county, for that he, the said C. D., on, &c., at the parish of _____, in the county aforesaid, did offer and expose for sale [twenty bales of cotton], of the value of [100*l.*], which [are reasonably suspected to] have been lately before then unlawfully taken from a certain ship and vessel, the property of A. B. [or, of a person or persons unknown], whilst the said ship and vessel was in distress [or, stranded and cast on shore]; and that the said C. D., although duly summoned by me, as such justice as aforesaid, hath not appeared before me, or satisfied me that he came lawfully by the said goods [or, that the said C. D. now appeareth before me, having been duly summoned for that purpose, but doth not show or satisfy me, the said J. P., that he came lawfully by the said goods], and altogether fails in so doing, against the form of the statute in that case made and provided: I, the said J. P., do therefore adjudge the said C. D., for his said offence, to forfeit and pay the sum of [twenty] pounds, over and above the value of the said goods, and also to pay the sum of _____ shillings* for costs; and, in default of immediate payment of the said sums, to be imprisoned in the _____, [and there kept to hard labour], for the space of _____ (a) calendar months, unless the said sums shall be sooner paid; and I direct that the said sum of [twenty] pounds shall be paid to A. B., (b) of _____ aforesaid, in which the said offence was committed, to be by him applied according to the directions of the statute in that case made and provided; and that the said sum of _____ shillings shall be paid also to the said A. B., to be by him applied in like manner, the owner of the said goods being unknown; and I order that the said sum of _____ shillings for costs shall be paid to E. F. [the complainant.] Given under my hand and seal, the day and year first above mentioned. J. P.

* If time be given for the payment of the penalty, the conviction may be the same as the above to the *] for costs; and I order that the said sums shall be paid by the said C. D. on or before the _____ day of, &c.; and I direct that the said sum of [twenty] pounds shall be paid to A. B., &c. [as in the above form, to the end.]

(No. 8.)

Order and award for wreck, on the 1 & 2 Geo. 4, c. 75, s. 7.

_____ } The order and award of J. P., K. P., and N. P., Esqs., three of his majesty's justices of the peace in and for the said county, and residing next unto the parish of _____, in the said county, made the _____ day of, &c. Whereas it has appeared unto us, the said justices, upon the complaint of A. B., of _____, in the said county, [broker], that on, &c., at, &c., in the parish aforesaid, the ship or vessel called the [Hebe], J. J. master, bound from _____ to _____, was stranded at _____, in the parish of _____ aforesaid; and that he, the said A. B., with great labour and expense, succeeded in saving the crew, landing the cargo, and getting the said ship from the shore where stranded, and that he hath conveyed the same to the port of _____, in the said county of _____: and whereas J. J., the said master [owner or owners, or his, her, or their agent or agents, as the case is], together with the said A. B., is [or, are] now present before us, the said justices, for the purpose of having the claims and demands of the said A. B., for such services as aforesaid, heard and determined. We, therefore, the said justices, having examined into the cause and circumstances of the premises, upon oath, and all matters relating thereto, do hereby order and award, that he, the said _____, shall, upon notice of this our order and award, pay unto him, the

(a) See ante, Vol. III. p. 553.

(b) See ante, Vol. III. p. 553.

Conclusion.

1071

FORMS.

said *A. B.*, the sum of _____, for his services of every description, as aforesaid.
 [Or thus, if the ship belongs to one party, one part of the cargo to another, and another part of the cargo to a third party, after the word "*award*," continue and say as follows: viz. that *A. A.*, *B. B.*, *C. C.*, and *D. D.*, of _____ aforesaid, being the owners of the said ship or vessel, shall, upon notice of this our order and award, pay unto the said *A. B.* the sum of _____; that *E. E.* and *F. F.*, of _____, &c. [merchants], being the owners of a part of the cargo of the said ship or vessel, shall, upon notice of this our order and award, also pay unto the said *A. B.* the sum of _____; and that *G. G.*, *H. H.*, and *I. I.*, of _____, &c. [merchants], being the owners of another part of the cargo of the aforesaid ship or vessel, shall, upon notice of this our order and award, likewise pay unto the said *A. B.* the sum of _____, for the services of every description rendered by the said *A. B.*, as aforesaid.] Given under our hands and seals, at _____, in the said county of _____, the day and year first above written.

J. P. (*L. S.*)
K. P. (*L. S.*)
N. P. (*L. S.*)

Writ, Proof, &c., of. See **Evidence**, Vol. II. p. 44.

Writings, How stated in Indictment. See **Indictment**, Vol. III. p. 347. **Stealing of**, Vol. III. p. 568.

CONCLUSION.

HAVING thus finished the work proposed, it may be requisite, upon the whole, to subjoin one single reflection, which will occur to every reader in perusing almost every one of the larger titles of this book; and that is, concerning the possibility and expediency of reforming the statute law. The statutes at large, from the very nature of the thing, have, in process of time, become very cumbersome and very intricate. They are not to be purchased but for a larger sum of money, nor to be understood without a greater expense of time, than a wise man would often choose to employ in that way.

The course to be taken in that matter seems to be this: (a)

First, Actually to repeal all those statutes, and parts of statutes, which are *virtually repealed* by subsequent contradictory statutes.

Secondly, To repeal all those statutes which are *obsolete*, and grown out of use, by the alteration of times and circumstances.

Thirdly, To repeal all those statutes which, being neither contradicted by subsequent statutes, nor become obsolete, yet are rendered *useless* by subsequent statutes enacting the same things over again, with alterations and amendments.

Fourthly, To repeal or alter all those statutes which are *frivolous*,—that is, which possibly cannot, or probably never will, be executed: such as those which appoint an offender to be whipped by the hands of the common hangman, where perhaps there is no such officer; or which prohibit an offence under a very small penalty, to be recovered in the courts at Westminster, where the reward will not countervail the expense of recovering it.

(a) These suggestions are by Dr. Burn.

Fifthly, To omit all those statutes which, although enacted to be public statutes, yet are only of *private concern*: such as those for bridges in particular places, or paving the streets in such a market town; and the like.

Sixthly, As to the rest, to lay all the statutes and clauses of statutes together which relate to the same subject, and out of the whole to compose one, two, or more uniform and consistent statutes; and then to repeal all those other, as workmen destroy the scaffolding when they have erected the building.

I know but of one material objection against this method of proceeding: and that is, that the law being now for the most part well settled upon the statutes, notwithstanding their acknowledged disorder and confusion, this would tend to unsettle all again, by breaking the connection which there is between one statute and another, and one part of a statute and another, altering the words and phrases, and after all, perhaps, not much mending the matter, since it is possible that the new statutes may be as liable to objections as the former were.

But this is an argument not so much against the thing itself, as against the manner in which it may be executed. As to breaking the connexion, it is certain that for the most part there is no connexion; and where there is, that may easily be preserved. And it ought to be laid down as an invariable rule, to retain as much as possible the identical words and sentences of the former statutes; only rejecting what is superfluous, inserting the clear law as it now stands, and putting the same into a form more regular, concise, and easy. And this seemeth no way impossible to be done by any person of a tolerable understanding, endowed with a clear head and much patience.



END OF VOL. V.

